

NEW MEXICO INFRASTRUCTURE

HEARINGS

BEFORE THE

COMMITTEE ON THE BUDGET

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

FARMINGTON, N. MEX.
MARCH 28, 1983

ROSWELL, N. MEX.
MARCH 31, 1983



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NEW MEXICO INFRASTRUCTURE

MONDAY, MARCH 28, 1983

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Farmington, N. Mex.

The committee met, pursuant to notice, at 8:45 a.m., in the city hall chambers, 800 Municipal Drive, Farmington, N. Mex., Hon. Pete V. Domenici, chairman, presiding.

Present: Senator Domenici.

Also present: Administrator Raymond Barnhart, Federal Highway Administration.

Staff present: William Hoagland, senior analyst for agriculture and physical resources and Linda Findlay, legislative assistant to Senator Domenici.

OPENING STATEMENT OF CHAIRMAN DOMENICI

Chairman DOMENICI. Good morning, everybody. We are going to start the hearing. I apologize for the hearing starting late. We are going to ask all the witnesses to stay on schedule as much as they can, because we have to finish as close to 12:30 as possible.

I want to welcome all of you, particularly those who come from long distances to be here with us. I have a few announcements before we start.

It is my pleasure to have here, sitting to my right, Ray Barnhart, who is the Federal Highway Administrator. We in Washington are very proud of him. He was taken by the President from a State job where he was running the highway program for one of our neighboring States, the State of Texas. Therefore, we think he understands the problems that the State highway department, the State highway commission, and the local units of government have with reference to applying the very complicated national transportation and highway laws. I personally want to thank you for all you have done for us, for your cooperation on the Environment and Public Works Committee, and for your agreeing to be here with us today.

If any of the State or local people have specific questions of Mr. Barnhart, I assume that in due course during the day, we can find a little time for, perhaps, the chairman of the highway commission, Sosimo, and some of your people to sit down and chat with Ray about some of the problems they have.

I would like to announce that Senator Bingaman had planned to be here but really could not make it, and he has asked me to make

a letter with his statement regarding transportation needs part of the record, and I will do that.¹

I have a rather lengthy opening statement that outlines the problems we have here in the Four Corners area, the problems we have in our Nation with reference to all kinds of public projects, water, public buildings, those kinds of public projects that we know are so necessary to keep a growing country solid and strong. I am going to just make that statement a part of the record in deference to the time. But I would like to discuss one aspect of the infrastructure need, and that is highway transportation—that is, interstate, primary, and the other roads. We are very fortunate that in the "lame duck" session of the last Congress, we made a significant dent in that problem for the next 5 or 6 years. The new act that we passed, the Surface Transportation Act, will result alone in \$57 billion being made available to the States over the next 4 years for highway and bridge construction and highway safety. Our State alone will receive about \$420 million as a result of the new formula and the new fund resulting from the 5-cent gasoline tax.

NAVAJO NATION TRANSPORTATION FUNDS

Likewise, I am pleased that the Indian people of the country will receive a permanent fund for highway transportation needs. I do not think there is anyone in this part of New Mexico who would disavow the desperate need for some surface transportation on the Navajo Nation, and that used to be an annual, hit-or-miss proposition. It would come out of an appropriation, and if the appropriators put money in, they got money. We now have made that a permanent thing each year—the first year, \$75 million nationally, and then the next three, \$100 million each year, divided in an equitable manner—to the Indian people for surface transportation needs. In this part of New Mexico, that is extremely important. The Navajo Nation will receive an allocation each year, and it will be a rather substantial amount. I think we could figure it out exactly, but we will do that when we have our Navajo witnesses later this morning. Suffice it to say that that is going to require some planning, and that is going to require the Bureau and the Navajo Nation to get together and decide what they want to do, so that we can get on with some contracts in that area. I hope we can mesh the Navajo plans with the State's plans in the surrounding areas, so that we begin to develop a much-needed network for our Indian people and those who work and use the Indian lands.

My prepared statement addresses some general issues of how much we ought to be spending as a Nation; whether local units of government are going to be able in the future to finance public works needs.

PREPARED STATEMENT OF CHAIRMAN DOMENICI

It is a real pleasure to begin this week of meetings and hearings on New Mexico's infrastructure, here in Farmington. This community, indeed the entire San Juan basin area, is clearly aware of the complex problems and challenges related to establishing and maintaining viable systems for water, transportation, sewers, and other public services.

¹ See p. 4.

I am equally pleased that the Administrator of the Federal Highway Administration, Ray Barnhart has also been able to join us this morning. I know Administrator Barnhart joins me in looking forward to your testimonies and discussion.

At the outset let me say that national infrastructure needs were clearly highlighted last winter, as the nation and the Congress focused on our deteriorating highways and bridges. Congressional action culminated in the passage of the Surface Transportation Assistance Act of 1982. That Act alone will result in \$57 billion being made available to states over the next four years for highway and bridge construction, and highway safety. New Mexico alone will receive about \$420 million over the next four years as a result of this new legislation.

I am particularly happy that an amendment I sought during Committee consideration is a part of the final legislation. That provision provides additional funding of \$75 million this fiscal year, and \$100 million annually for the next three years, to specifically fund Indian roads and bridges. This amount is nearly twice that provided in recent years.

But the term infrastructure goes far beyond just roads and bridges. It encompasses a wide array of public capital investment projects, critical to the basic functioning of our society.

It seems to this Senator, that it is appropriate we begin our discussion of infrastructure here at the local level. For the power, importance, and prestige of our national government should not be allowed to obscure the fact that it is within our towns, on our Indian reservations, and in our villages that the vast majority of infrastructure needs will be debated and final funding decisions made. Notwithstanding the vast powers gathered into the federal government, decisions you make at the local level will significantly influence your future and in so doing—your strength and viability will also be critical to the strength of our Nation.

Let me hasten to add, however, that while I recognize many of your infrastructure issues are regional in occurrence, they are and have been strongly affected by Federal and State policies. Probably this is nowhere more apparent than as it relates to national energy needs, and the resulting developmental and infrastructure pressures they have placed on communities such as those here in the San Juan Basin.

Many of you who will testify this morning are publicly charged with providing vital services to the citizens of this State, and particularly northwest New Mexico. These services such as municipal water systems, sewage disposal, roads, bridges, and airports require vast sums of capital. Such services are needed not only for basic public health and safety, but obviously are also critical to industries and businesses and therein regional economic growth. From my perspective as Chairman of the Senate Budget Committee, I believe that reliance on some of the past Federal categorical grant programs to meet these funding needs is probably unrealistic. Recognition of this fact was the genesis for my introducing S. 532 the Public Investment Incentive Act of 1983, that would focus on State grants to provide low or no interest loans for public capital investment projects.

We all must look for new and innovative ways to fund our infrastructure needs, while at the same time carefully balancing the sometimes competing objectives of our environment and rich cultural heritage. Balancing complex and competing objectives, has not in the past—nor will it be in the future—an easy task. But the essence of public policy is compromise, and I believe that by working together, Federal, State, local, and private groups can find solutions to these complex issues and in so doing preserve those things so basic to our society.

JEFF BINGAMAN
WASHINGTON

United States Senate
WASHINGTON, D.C. 20510

March 25, 1983

The Honorable Pete V. Domenici
United States Senate
Washington, D.C. 20510

Dear Pete:

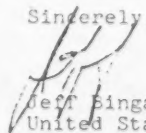
Thank you for inviting me to participate in your hearings looking at our nation's infrastructure. Unfortunately, previous commitments in the state make it impossible for me to attend. I'm pleased to submit a statement of my concern on this issue and ask that it be included in the record. I congratulate you for bringing this important matter to our state's and nation's attention and for your leadership in offering creative approaches to deal with the problem.

I share your concern that for nearly a decade, the critical public facilities that underpin many community services have been wearing out faster than they have been replaced. The nation's infrastructure has been largely ignored. Recently, however, growing numbers of bursting water mains, collapsing bridges, crumbling roads and stalling buses have awakened the public to these problems.

The federal government must work with state and local governments to find the answer. Your proposal to set up Infrastructure Banks and a National Infrastructure Council are two positive steps towards channeling the resources necessary to meet our public investment needs.

Again, thank you for inviting me to participate. I look forward to reviewing the comments of all participants.

Sincerely,


Jeff Bingaman
United States Senator

JB/mar

Enc.

STATE OF NEW YORK SENATE

Session on S. 533

March 22-31, 1983

I am sorry I cannot be with you today, but previous commitments in the state make it necessary for me to be absent. I did want to let you know of my concern for the problems I see in our nation's infrastructure. I applaud Senator Domenici for bringing this important issue to the public's attention and for his leadership in offering a creative approach to deal with the problem. I look forward to reading the transcripts of your comments today, both the problems you face and the solutions you offer.

For nearly a decade, the critical public facilities that underpin many community services have been wearing out faster than they have been replaced. The nation's infrastructure has been largely ignored. When money has been made available for use for public capital investment, it has been much more popular to spend it on new structures instead of repairs. Federal public works programs often have been against maintenance in favor of growth.

Recently, however, growing numbers of bursting water mains, collapsing bridges, crumbling roads and stalling buses have awakened the public to the problem of the deteriorating infrastructure. The deteriorated condition of these essential facilities is so serious that it threatens to limit the full recovery of the nation's economy. The primary source of the decline in the condition of America's

Infrastructure is long-term massive under-investment. We can see this in the following trends.

° In constant (1972) dollars, gross investment by Federal, State and local governments in public capital increased from 1957 to 1968 by an annual average rate of 5.3 percent, to \$41 billion. Between 1968 and 1980, however, total investment declined at an annual average rate of 3.7 percent, and by 1980 had dropped to approximately \$26 billion.

° In the early 1960's total public works investment as a percent of gross national product fluctuated between 3.5 percent and 4 percent. Since 1966, when public works investment reached a high of 4.1 percent of total GNP, this indicator has continually declined to a low of 1.8 percent in 1980.

° On a per capita basis, public capital investments dropped in constant dollars from \$198 per person in 1965 to \$115 in 1980 -- a 42 percent decline.

° Federal expenditures for public works projects reached a peak in 1966, when real spending amounted to \$7.1 billion. In 1980, Federal investment in constant 1972 dollars amounted to approximately 65 percent of that peak, or \$4.6 billion.

° The share of public works investment by State governments has fallen off from a high in 1972 of 42.3 percent gross

investment to 32 percent in 1977. Given the fact that this decline has intensified in recent years, it would seem that in general, States are not adequately prepared to take on increased funding responsibilities for public works investment.

° The share of total public capital investment by local governments has increased slightly as a percentage of the total amount spent by all levels of government (from 46.5 percent in 1959 to 53.7 percent in 1977), even though in constant dollars local investment fell from a peak of \$21.1 million in 1968 to \$15.8 million in 1977. However, given the fact that the size of the "pie" for public works investment is becoming smaller, it would be wrong to think real spending by local governments has increased.

The decline in investments in the public capital stock has occurred in virtually every public works activity. The degeneration of these physical systems has been linked to inflation, loss of labor and technological productivity, economic doldrums, and budget deficits. But, whatever the cause, much of the anguish over deteriorated infrastructure results from the belief that this deterioration is thwarting economic revitalization.

How bad is the current situation in this country? More than 50 percent of the primary system pavement will reach the end of its design life and therefore require repaving during the next decade. This is a ten-fold increase in

deteriorated pavement since 1978. Almost one in every 10 miles on both the urban and rural interstate systems is officially rated in poor condition by the Federal Highway Administration. The average useful life of a bridge is 50 years and 75 percent of the bridges in this country are 45 years old. The National League of Cities, in a 1981 survey, showed that 48 percent of local officials responding said their sewage and drainage facilities needed major rehabilitation or replacement and constituted their most serious infrastructure problem. The same survey revealed that 54 percent of the respondents said they could not afford to pay even half the rehabilitation cost. As early as 1966, the American Waterworks Association (AWA), the industry trade association, estimated that some \$1.8 billion per year was needed to replace obsolete equipment and make up for service deficiencies. Since that time, investment in repair and replacement has greatly lagged behind estimated needs, creating the potential, at some point, for large-scale reconstruction.

A primary objective of public works investment is to provide basic public services that underpin the operation of national and local economies. Industry cannot operate or expand without adequate water and sewer systems and well maintained roads, bridges and transit systems to get its employees to work and goods to market. Investment in public facilities is therefore as essential for national and local economic renewal as investment in the private industrial base.

In the 1980's, the competition for financial capital will be intense. The private sector will require substantial capital to retool and modernize basic industries. At the same time, the Nation's public infrastructure must be renovated and revived. The investment levels required in the public sectors in the years ahead will far exceed the

requirements of the past decades. Despite this, local governments today are becoming financially crippled. Tax revolts have cut into the local revenue base and Federal aid programs are being reduced. As a result, it will be even more important to plan and manage public works investment in a manner that makes efficient use of scarce and expensive capital.

To cope with these losses, town and city officials face a limited set of traditional revenue-raising alternatives. In the current climate of fiscal restraint, local politicians are reluctant to advocate higher taxes, and many cities do not have taxing authority. States and cities across the country are also facing a borrowing crunch of unprecedented dimension, because of their inability or unwillingness to pay high enough interest rates.

Something must be done, and because of the magnitude of the problem, there is a clear role for the Federal government to take the initiative to resolve it through working with state and local governments. I think Senator Domenici's approach in providing the money for states to set up infrastructure banks in order to make loans for infrastructure repair is a strong step in that direction. Interest from these loans would go back into the bank which would allow better leverage of the funds and a continuing source of capital for municipalities. Additionally, his proposal to establish an independent council to coordinate activities of federally funded capital investment projects will provide needed stewardship in harnessing our Federal resources to cope effectively with our public investment needs.

Thank you for allowing my comments to be placed in the official hearing record.

Chairman DOMENICI. Let us proceed with our first panel. We have chosen to call them the general local finance panel, meaning that they are busy at the local level, trying to run small units of government, cities, counties, and the like, and we hope to find out from them how they see their road needs and other public works such as water, sewer, and the like, and whether or not these kinds of facilities in today's market are financeable, and whether they have the kind of capacity to finance them.

So, let's start by introducing the panelists. We have Dee Montano, the mayor of the city of Farmington; Ken Good, the mayor of the city of Aztec; the mayor of Bloomfield could not make it, but Shirley Willis, who is the manager, is here in the mayor's stead; the county manager of San Juan County, Sally Welles; and Denise Fort, the secretary of the department of finance and administration, is also with us.

So now, we are going to start, and if you don't mind, we'll take it in the order that we put you on the panel, so Mayor Montano, if you would start, and we will proceed with all the panelists before we ask questions.

Now, before we do that, I would like to ask the Administrator if he would care to say anything.

OPENING STATEMENT OF RAYMOND BARNHART, FEDERAL HIGHWAY ADMINISTRATOR

Mr. BARNHART. Thank you, Senator.

I am just very pleased to be back down here again. The last time I came, I think I was somewhat abused because you put such a strong request for some additional funds for technology transfer, and you were delighted we would comply with that. I think it is the most important program. I think everyone recognizes that, while we have a magnificent highway system that has been built over the years, for too long, we have not properly and adequately maintained that system, and under this administration, we have tried to reemphasize the importance of the maintenance aspect of our highways. One part of this was to supply funding to the States in order to promote a better utilization of our resources and our research at the local level, and so I am very pleased that we were able to accommodate you on that program.

And, incidentally, there are many other States that now also want to participate in that same program.

Chairman DOMENICI. Thank you very much, Mr. Administrator. Now, let us proceed.

Mayor Montano.

STATEMENT OF HON. DEE J. MONTANO, MAYOR OF FARMINGTON, N. MEX.

Mayor MONTANO. Thank you, Senator.

As we are all aware, the recession of the national economy has had a severe impact on the ability of local government to provide necessary services and facilities for our constituents.

GROSS RECEIPTS TAX DECLINING

In Farmington, we rely on gross receipts tax to produce the majority of the funding for services we provide, as well as to retire seven different revenue bond issues whose proceeds have funded the most recent additions to our local public infrastructure. Unfortunately, our gross receipts have been steadily declining over the last several months. Through February, last year's gross receipts were down by 1.93 percent, while this year's gross receipts are down by 8.1 percent.

A generalized analysis of the period July through February reflect the current financial problems faced by the city. The net result in 1980-81, \$840,871; in 1981-82, there is a deficit of \$569,809; and in 1982-83, there is a deficit of \$537,759.

The trend of declining gross receipts is expected to continue with the recent additional layoffs in the gas and oil industry of our community.

Current unemployment in our county is 14.1 percent, and on the increase. Also, the Navajo Nation, which utilizes Farmington as a trade center, currently experiences an unemployment rate greater than 25 percent. The sum total of declining revenues and increased unemployment is a marked decrease in our ability to maintain the level of service the citizens of Farmington are entitled to.

WATER KEY TO PROSPERITY

My responsibility to the citizens of Farmington cannot be restricted to short-term solutions. All of us must be aware of the future and our duties now to plan for future needs. Water is as great a key to prosperity now as it was when New Mexico became a State. The council has gone on record supporting the Animas-La Plata project, which will provide water for our needs into the next century. I must qualify this support as being based upon a satisfactory cost-sharing formula and contractual arrangements being negotiated with the Bureau of Reclamation.

TRANSPORTATION SYSTEM NEEDS HELP

Transportation in this area of the State has always been a problem needing to be dealt with. The lack of adequate highways, the absence of a railroad, and nonnavigable rivers leaves us with an airport as our major commercial transportation facility.

Gus Byrom, Farmington transportation director, will set forth our ideas during the transportation infrastructure panel discussion. Let me add that transportation will impact the local and regional economic picture to a tremendous extent. Our ability to attract diversified industry will be dependent upon several factors, transportation being a large one.

This critically important proposal to focus resources and attention to our needs of transportation facilities, water resources, and governmental services will not only be a shot in the arm for improved and sustained economic health but will enable us to continue to provide the level of services and facilities to which the citizens of Farmington are entitled.

Thank you very much.

Chairman DOMENICI. Thank you very much, Mayor.

PREPARED STATEMENT OF HON. DEE J. MONTANO, MAYOR OF FARMINGTON, N. MEX.

SENATE BUDGET COMMITTEE HEARINGPUBLIC INFRASTRUCTURE

STATE AND LOCAL FINANCES

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A generalized analysis of the periods July through February reflect the current financial problems faced by the City.

	<u>1980-1981</u>	<u>1981-1982</u>	<u>1982-1983</u>
Revenues	\$8,076,174	\$8,942,762	\$8,927,232
Expenditures	7,235,303	9,512,571	9,464,991
Results	\$ 840,871	(\$ 569,809)	(\$ 537,759)

The trend of declining Gross Receipts is expected to continue with the recent additional layoffs in the gas and oil industry of our community. Current unemployment in our county is 14.1% and on the increase. Also the Navajo Nation, which utilizes Farmington as a trade center, currently experiences an unemployment rate greater than 25%.

The sum total of declining revenues and increased unemployment is a marked decrease in our ability to maintain the level of service the citizens of Farmington are entitled to.

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been a problem needing to be dealt with. The lack of adequate highways, the absence of a railroad and non-navigable rivers leaves us with an Airport as our major commercial transportation facility. Gus Byrom, Farmington Transportation Director will set forth our ideas during the Transportation Infrastructure Panel discussion. Let me add that transportation will impact the local and regional economic picture to a tremendous extent. Our ability to attract diversified industry will be dependent upon several factors, transportation being a large one.

This critically important proposal to focus resources and attention to our needs of transportation facilities, water resources and governmental services will not only be a shot in the arm for improved and sustained economic health but will enable us to continue to provide the level of services and facilities to which the citizens of Farmington are entitled.

Chairman DOMENICI. The mayor of Aztec? Ken, we are delighted that you are here, and we look forward to your testimony.
Mayor GOOD. Thank you, Senator.

STATEMENT OF HON. KEN GOOD, MAYOR OF AZTEC, N. MEX.

Mayor GOOD. Like most cities in the United States, Aztec has been hurt severely by the recession, and this harm has impacted our infrastructure most severely. When funds dwindle and money gets tight, the first thing to suffer is capital improvements and repair and replacement of infrastructure.

CAPITAL PROJECTS AT STANDSTILL

Our general fund has been hardest hit because its major source is gross receipts or sales tax. Since one of our major sources of assistance for capital projects is the State Community Assistance Council, which is largely funded by oil and mineral severance tax dollars, which have suffered negative effects of both the recession and falling oil prices, capital projects are virtually at a standstill.

Badly needed sewer line replacements, storm drainage improvements, water supply measures, paving of dirt streets, and repairs of deteriorated pavement have been the victims of economic cutbacks.

The last several years have seen the systematic withdrawal of Federal programs designed to help cities deal with their capital needs. The dismantlement of CETA deprived us of the local where-withal to bring local unemployed to work on maintenance of storm drainage and recreational facilities, both labor-intensive endeavors.

The popular target of media and other critics was LEAA. Despite the fact that abuses were discovered and spotlighted, most small cities found those funds their only resource for acquiring badly needed communications systems, recorders, and other vital items too costly to otherwise be affordable. Later, as restrictions of use and cutbacks of funds occurred, training assistance and improvement of the court system and diversion was emphasized, and then funds totally dried up. A graphic example of our impact in Aztec, with our total police manpower including administrative, dispatch, and so forth, of 17 people, and an annual budget of \$463,000, less

than \$6,000 was available last year for capital items including cruiser replacement. The department owns only one portable radio. It needs 10, and they cost about \$1,250 each. Our general fund total income for the same period was \$1,287,000.

THREATS TO REVENUE SHARING

In the coming year, we must be concerned about the threats to our only remaining Federal source of funds, general revenue sharing. It produces \$83,000 per year in revenue for the city, and its reduction or withdrawal would result in catastrophic cutbacks to an already severely stressed budget.

It appears to us that we have received one-half of the New Federalism program—the bad half. Federal participation has almost totally disappeared. The other half that was supposed to balance things out, the transfer back to local levels of taxation measures mandated and preempted by the Federal Government, just has not happened.

Thank you very much.

Chairman DOMENICI. Thank you very much, Mayor.

LEAA COULD HAVE SURVIVED

While LEAA and needs in law enforcement work are part of the program, let me say to you that LEAA would still be alive, in my opinion, if we would have only judged what the small communities did with the money, because they basically, once they got rid of all the money going into studies, they were using it for very basic things. I think nationally, it is generally understood that the reason for its demise was that it continued to go round and round in terms of studies and evaluations, and ideas that never got down to anything meaningful. As far as the small communities, if we could have left it alive for them for things such as you described, we probably would have kept it. I appreciate your comments.

Do I understand, then, from the two of you that basically, you use gross receipts to debt service capital improvement programs in your communities?

Mayor MONTANO. Yes.

Mayor GOOD. Yes.

Chairman DOMENICI. Do you use general obligation bonding at all?

Mayor GOOD. Yes.

Chairman DOMENICI. So it is a combination of the two?

Mayor GOOD. Yes.

Chairman DOMENICI. Shirley, you are next.

STATEMENT OF SHIRLEY WILLIS, MANAGER, BLOOMFIELD, N. MEX.

Ms. WILLIS. Mr. Chairman, thank you very much for allowing me to sit in for our mayor. I am sorry she could not make it this morning, but I will try to fill in as best I can.

Chairman DOMENICI. You are welcome.

Ms. WILLIS. I have no prepared statement, but almost generally, you could duplicate these two statements again for the city of Bloomfield, with the possible exception that the city of Bloomfield

is even more restricted in operating funds than possibly funds in Aztec, and all of our capital improvements have been completely dependent on general revenue sharing or bond projects that we have been able to do in our water and sewer departments with revenue bonds. Our gross receipts also have declined. We are running right now about 12½ percent short of our budgeted figure so far this year. We realize that we are not the only ones.

KEEP REVENUE SHARING FOR CAPITAL PROJECTS

We are trying to do some creative or innovative approaches to some badly needed projects. We are experimenting with citizen participation in some of these projects that will affect them generally, and so far it seems to be pretty well accepted. We are really doing the very best we can to generally, on our smaller projects, help ourselves, but we are virtually totally dependent on either State or Federal funding for water and sewer projects. The larger projects, small communities are just not able to fund. We do have geobond issue. That was for infrastructure and building for the city administrative and fire and police offices. We also have revenue bonds on those projects. But I guess the main thing we are concerned with now, again, is that the general revenue sharing not be cut, and if possible, that that remain available to us for funding for our capital projects for the future.

We are also very pleased to hear that we are in the process of getting a new jobs project, which we will have a meeting on here tomorrow. We have utilized CETA help in the past very successfully, and it was a bad loss to us. We have laid off seven people in the last month in Bloomfield due to our falling revenues, so we are really looking forward to this new jobs program to see if it will help us with some of our labor problems.

Thank you very much.

Chairman DOMENICI. Thank you.

Our next witness is the county manager of San Juan County. We are delighted to have you here, Sally.

Ms. WELLES. Thank you, Senator.

STATEMENT OF SALLY WELLS, COUNTY MANAGER, SAN JUAN COUNTY, N. MEX.

Ms. WELLS. On behalf of the county commissioner and our residents, it is a pleasure to welcome the panelists and particularly you, Senator. It is always a pleasure to have you back in New Mexico.

ROSY PICTURE RAPIDLY FADING

Recently, we have all heard the terms "deficit" and "shortfall" used in discussions of financing at the State and national levels. Fortunately, San Juan County has been in a reasonably healthy financial position. We will end this fiscal year with a cash reserve, and this has been due in part to a fiscally responsible program established by our commissioners which addresses the immediate needs of our citizens, as well as looking toward future growth of the county.

However, recent events of the past few months are catching up with us, and the rosey picture is rapidly fading. As you know, we have experienced a severe decline in the revenues due to the slowdown in new oil and gas production in our area. We also have, as the mayors said, 14-percent unemployment in our area, which naturally means that less money is being generated and spent locally. We are also faced with cutbacks in funds from Federal Government, both at the State and at the local levels.

We have been assured that revenue-sharing funding will continue at least for the immediate future. This program provides approximately 10 percent of our annual operating budget, and historically, San Juan County has used revenue sharing funds for our capital outlay program, as well as providing assistance in the social service/health care field. So revenue sharing for San Juan County is very important.

PILT PROGRAM HAS PROBLEMS

The payments in lieu of taxes program has also been most beneficial. PILT, as the program is referred to, provides payments to local units of government for certain Federal lands within the geographical area of a local unit of government. In our case, this amounted to \$630,000 for this fiscal year. When you realize that less than 5 percent of the land in San Juan County is privately owned, you can see that this is a very important program for our County.

Chairman DOMENICI. What have you used PILT money for, basically?

Ms. WELLES. It is added in our general fund moneys. We use it as operating money. It is used, then, for law enforcement, for maintenance of roads in these areas, where we have no other source of income from the Federal lands.

Chairman DOMENICI. But in a sense, putting that in the general fund of the county might loosen up some of the other money for capital improvements—

Ms. WELLES. Yes.

Chairman DOMENICI [continuing]. And that is why you may be able to use more general revenue sharing for capital improvements or debt service, because you have had PILT for a few years.

Ms. WELLES. Yes, sir. That is very true.

However, the PILT program, as you know, Senator, is in trouble, and the situation has been complicated by the recent decision in the Sixth Circuit Court of Appeals, which found the funds distribution illegal.

LEGISLATION INTRODUCED TO HELP PILT PROGRAM

Recently, Commissioner Todd Hickman and our county treasurer, Pete Ronn, attended a National Association of Counties Conference in Washington, D.C., and visited with the Senator at that time, reviewed the program with him, the emphasis being that this program is particularly important to the counties in the Western United States, and we are delighted, Senator, that you are proceeding to introduce legislation which will, we hope, solve this distribution problem.

Chairman DOMENICI. That was introduced about 4 or 5 days ago. Ms. WELLES. Very good. And I understand also that Congressman Dragosik has introduced legislation in the House, which we hope will also help.

REVENUE DROP; POPULATION INCREASE

In reviewing our financial picture, it is amazing to note the growth of our county. Our population has increased by some 70 percent in the past 5 years, and because many people choose to live in a rural setting, we then are required to provide the increased services. That means, of course, additional equipment, manpower, supplies, and materials.

During the past 5 years, our revenues have increased threefold. However, the percentage of Federal funds received during this same time period has declined from 41 percent of our total revenues to 14 percent.

At the present time, we are closely following the jobs bill to see where we may be able to apply for projects which will help aid the unemployed in our area while addressing certain needs that we have.

We are struggling with the same problems as all other counties and cities. Demands for services are greater than our ability to respond. A good example is our jail. We opened a new facility in January of 1982, built at a cost of \$4.5 million—this is bond issue money. The complex was designed for a 10-year growth pattern, but the day we opened it, it was full, so we have that problem to face all over again.

We maintain close to 1,000 miles of road, and we need to replace many old bridge structures, install culverts, gravel many, many miles of road, and the list goes on and on.

The State legislature during its recent session provided some avenues for additional funding, but most require the imposition of additional taxes, and as you know, it is difficult to impose new taxes, particularly during these times of economic difficulty.

RESERVATION JURISDICTION ISSUE

An area that we will most likely be calling on you, Senator, for assistance is the jurisdictional issue with regard to the Navajo Reservation. We are receiving more and more requests for services and aid from both the Navajo tribe and from residents living on the reservation, and we are finding that the laws dealing with this matter are contradictory and confusing.

We are extremely pleased that you have taken time to visit us in San Juan County, and we know that you will share your expertise and that you will assist us wherever possible.

Chairman DOMENICI. Thank you very much.

INFRASTRUCTURE BANK LEGISLATION

Denise, we will be delighted to hear from you. Before you testify, let me ask you, if you have not for today, if you would for communication with me, take a look at the infrastructure bank legislation that I introduced. The history of it is rather exciting. The State of

New Jersey went to work on an idea with the new Governor, who was very versed in economics and finance matters, and they decided that if their State set up a State infrastructure bank, and if we would permit sewer grant funds to be transferred to their infrastructure bank, that they would put some equity capital in from the State and then, since most of those programs have user fees attached, they would set in motion an allocation of the user tax to the fund. Thus they have have a revolving fund, with very low interest charges available for sewer projects. They would lend at very low interest, long-term payback, and all the community would do would be to allocate the user fee that they were going to collect anyway and pay on the project. They would be sending that to the revolving fund. From their standpoint, that yielded a rather marvelous result. Over a 7- or 8-year period, they would complete three times as many projects and still have a revolving fund, and we would not have granted out money on a case-by-case basis, but we would have put it into the revolving fund. We have introduced a piece of legislation that would do two things, it would authorize State infrastructure banks and let a State put sewer grant money into a revolving fund and then, as a general proposition, we would put some national seed money into the bank pursuant to some minimum guidelines to be established by a national board that would handle the infrastructure bank.

ELIMINATES THE CATEGORICAL GRANT

Now, certainly, I would not expect you to have that all analyzed now; that is a very tough job. But I would hope that if you have time, you might take a look at that in light of the way local units of government finance capital improvements. It is rather interesting. If part of it is financed by gross receipts, and if that is significant in our State, then that is a very good source of match money in the revolving fund—as I see it, anyway. So I am very interested in it, because it seems to me it does away with the categorical grant, which targets the money and once you use it, it is gone, and puts it into a very flexible mode for communities to draw against it, based upon their needs.

Having said that, I certainly do not want to limit your testimony, and I would be delighted to hear what you have to say on the overall subject today, and thank you for coming.

STATEMENT OF HON. DENISE FORT, SECRETARY, NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

Ms. FORT. Senator Domenici, thank you for the opportunity to be here, and I appreciate the group of witnesses you have assembled, and I think it is going to be a very informative morning.

I am familiar with your Senate bill 532 and have prepared some comments on the structure of that bill and on the infrastructure bank idea.

Chairman DOMENICI. Good.

Ms. FORT. In New Mexico, roads and water in this part of the State are the big issues. We do need paved, all-weather roads up here, to make sure that we do not repeat the emergency food and fuel airlift problem which was recently encountered on the Navajo

Reservation. We also need roads to get to the coal, oil, and gas deposits that are the basis of the area's economy.

Water is equally crucial in the area and is probably more problematic here than anywhere else in an already arid State. These are not the only issues for local infrastructure. Landfills are a problem, and jails are also overflowing.

FEDERAL PAYMENT TO STATES DECLINE

We have experienced Federal cuts in the recent past. In 1980, 16 percent of the Federal budget went to State and local government. That share has now been cut to 11 percent in the President's proposed 1984 budget.

General revenue sharing, payment in lieu of taxes, and waste-water treatment grants are crucial to local government. These programs, while they have not been cut in the recent past, have largely been frozen. In the case of revenue sharing, the amount we receive now for counties is the same level we received over 10 years ago when the concept was introduced. Likewise, PILT payments are about the same as they were 6 years ago. These programs have been mentioned as targets for cuts. In 1981, the President proposed the complete elimination of the waste-water treatment programs. Fortunately, it and the other two have been kept alive, even though they are at this frozen level.

These programs, as you have already heard this morning, contribute directly to local government's ability to finance public infrastructure. Any reduction in them is a direct reduction in a locality's ability to finance capital improvements.

WOULD LEGISLATION REDUCE FEDERAL PROGRAMS

I would like to turn to your legislation, Senate bill 532, with a couple of comments on it. I think the major question that I have about the legislation on behalf of the Department of Finance and Administration is whether or not it is conceived as a vehicle to eliminate or reduce the other Federal programs that I have mentioned which deal with infrastructure and local government, such as PILT, general revenue sharing, and the sewage treatment programs.

Even if the intent of the legislation is not to dilute these other programs, they could be perceived as a substitute for them—as you say, for the other categorical block grant programs—and therefore result in their reduction.

FINANCIAL CONDITION A PROBLEM

The basic difficulty, if that were the result—and let me begin by saying that I think the infrastructure bank idea is a very good one for certain situations. In other situations, I think, as we are hearing from municipalities today and municipalities throughout the State will tell you, their revenues are strained. To the degree Senate bill 532 relies on user fees, which are in effect another form of taxation, you may be asking municipalities which cannot afford to impose an additional form of taxation to impose these taxes to pay for the infrastructure which they now receive in the form of

grants. So I think we are looking at a double-edged proposition here. While the idea of making loans from a bank rather than grants is desirable in that you would maintain a revolving amount of money, and that would lessen the need for direct Federal grants, there may be municipalities, and I think in the experience of DFA, there are municipalities, which cannot afford to repay even a no-interest loan. I think the question comes to the old axiom about bank loans—if you need a loan, you cannot afford one, and if you can afford one, you do not need one. I think the other question which comes up about user fees as a means of paying for the capital infrastructure is that user fees are in effect forms of taxes, and they are frequently regressive taxes. When we are talking about people paying for basic services, such as water, the burden of a user fee may fall on those least able to afford them.

So I think in conclusion with regard to the infrastructure bank, it would be a good element of one part of a State's financing, but I do not think in New Mexico at the present time that we can look to it as a replacement for some of the other forms of direct Federal grants which the State has received in the past, simply because our municipalities cannot afford to pay for all projects through user fees and through what is anticipated to be, for the most part, capital investment in these projects based on the user fees.

TECHNICAL COMMENTS ON INFRASTRUCTURE BILL

Other technical comments on the bill are that it might be made more explicit to what units of local government the bill would apply—specifically, county governments, Indian tribal entities—water districts, of which there are 600 in New Mexico, could be specified as eligible beneficiaries.

A further question is what allocation formula will be used for the distribution of these funds. I understand that the bill anticipates that the council established in the latter part of the bill would determine the allocation formula. I would caution, based on New Mexico's past experience, that with our small population and large land area, many formulas which could be used might be discriminatory against New Mexico. We also might be perceived, because of our oil and gas industry, by Eastern States and other States, as having uncounted wealth, when in fact, as we know, we are now looking at a period of declining oil and gas production. It might be wise to specify in the bill the sort of allocation formula that could be used for distributing these moneys.

We were trying to guess what sort of money New Mexico might receive under this formula, and assume that if we received approximately the same amount we have received under other revenue sharing, we might receive approximately \$50 million over a 3-year period. That, of course, cannot be known until the council were to determine the allocation. The question might be raised whether or not that is a sufficient amount of money, given the significant costs associated with such items as waste-water treatment plants and roads and other capital infrastructures we know as simply expensive. While you view this as a pilot project, as I understand it, one might consider putting more money into the program. State administrative costs would also be associated with the program, although

they are not specified, and I understand that the State would bear them.

So in conclusion, the idea of an infrastructure bank is one that is appealing, but not to the degree that it would replace the direct Federal grant programs upon which our municipalities have become dependent, and I think they will be dependent, given the economic future the State faces.

Thank you.

Chairman DOMENICI. Thank you.

REVENUE SHARING PROGRAM WILL NOT BE CANCELED

Before I ask a few questions, let me make a few observations regarding the testimony that has been given. First, general revenue sharing. I do not think there is any chance that that program is going to be canceled. I think the bill has been introduced by a number of us to extend it for 5 years. I think that is going to fly right through the Senate and the House, and I think the President is going to sign it, and that will be done rather quickly. I think there is an outside chance—maybe even better than that—that we will get an additional one-quarter of revenue sharing for cities and counties, so that they would get five-quarters in the next fiscal year, five-quarters of distribution instead of four—don't budget on it yet, but if you look back on its history, one-quarter was withheld over the last 10 or 12 years, and so we would just make it current by taking one-quarter of that which was withheld a number of years ago into a fiscal year and catch it up. In fact, that passed overwhelmingly in the Senate. It was part of the jobs bill, but was clearly not within the scope of the House-Senate conference on the jobs bill, so it was deleted. But I think that will occur.

PILT PROGRAM NOT IN DANGER BECAUSE OF CONGRESS

PILT money has been a boon to counties like yours and a number of others in New Mexico. It is not in danger because we will not fund it, because the Senate has enough support on appropriations to fund it. It is not as attractive to the House, as you might suspect, because a number of the districts that are represented on appropriations do not have any public land; it is really a western approach to equity. It is in jeopardy because, as you indicated, Sally, a court in the East found that the use of the word in the statute with reference to which local unit of government was to get it found that it was not exclusively for western counties, so if that interpretation remains, then that money gets divvied up across this country, which was never intended unless they had public lands in lieu of taxing of them. We have introduced the bill to clarify it and leave it precisely as it is, and we are fully aware of the extremely precarious position of counties here and in many Western States with heavy public lands within the county borders that would suffer if that program disappears.

QUICK AVAILABILITY OF JOBS BILL MONEY

With reference to the jobs bill, I am delighted that the new jobs bill that is already funded is now being looked at. I am hopeful

that the State and local units can begin to analyze it quickly. It has an awful lot of money in it nationally. It is not going to be as versatile in terms of how it can be used as past jobs money, but hopefully, it will be helpful.

WASTEWATER TREATMENT AND INFRASTRUCTURE BILL

In terms of the infrastructure needs, let me just say this, Denise. With reference to your observations, they are most appreciated, and they certainly go right to the various shortcomings of such legislation and ask some appropriate questions. Let me, however, say it was never intended to fix everything. Quite by coincidence, as I indicated, in its history, it may fit the waste-water treatment funding to a "t" because almost all waste-water treatment plants have user fees attached by definition, which generally go to the local unit of government's share as a means of paying for that. But it would not have to exclusively be funded at the local level by user fees. In the instance where a community would use some money, for instance, out of its general fund for capital improvements, they might be able to make a deal where they would put their share in along with the States and the Federal revolving money, and it would thus make a rather substantial commitment to the revolving fund. But we will work on all of that, and we will continue to stay in touch with you about it.

INDUSTRIAL DEVELOPMENT BONDS

Let me ask a few questions. Have industrial development bonds been used by any municipalities for construction within their jurisdictions?

Mayor MONTANO. Yes, we have.

Chairman DOMENICI. Mayor, do you have a recollection of what kinds of things you have used them for?

Mayor MONTANO. Let me have Bill Manchester comment.

Chairman DOMENICI. Go ahead.

Mr. MANCHESTER. Senator, we have used two industrial development revenue bond issues. The city has authorized three, but two have actually been used. In one case, it was for Y & S Candies, and in the other case, it was for Olman Heath. Y & S Candies was a number of years ago; Olman Heath is rather recent; in fact, the development in Olman Heath is presently underway.

Chairman DOMENICI. Have any of the other units of government used any IDB's?

Ms. WILLIS. We have been approached by two entities now to issue IDBs, but they have not come back for actual funding. One of them would be to finance a nursing home in Bloomfield, and the other one would be to help finance a new motel in Bloomfield. But I do not know whether either of those will materialize, since they have not come back.

Chairman DOMENICI. Mayor Good?

Mayor GOOD. We have a couple of requests at the present. I will let City Manager Ralph Wagner address that.

Mr. WAGNER. We are in the early stages of planning now, and have been approached for an industrial revenue bond issue to help support a motel and tourist complex in our city that would add to

the city's prosperity considerably. We would hate to see any further threats to the tax-exempt status of those for legitimate projects.

SUPPORTS TAX-EXEMPTION OF IRB'S

Chairman DOMENICI. You say you support the continuation of their tax-exempt status?

Mr. WAGNER. Yes, sir, we sure do.

Chairman DOMENICI. Let me ask another general question with reference to municipal bonds. I assume they would be principally general obligation municipal bonds that have been used for capital improvements—is that a fair statement or not?

Ms. WILLIS. Mostly revenue in Bloomfield.

Chairman DOMENICI. Good. Most of the municipal bonding is financed through local available revenue rather than general obligation?

Ms. WILLIS. Most of ours is. We have several revenue bond issues that we have built water and wastewater projects with. We have one gross receipts revenue bond issue that helped with the new complex that I spoke of earlier.

Chairman DOMENICI. How about Farmington?

Mr. MANCHESTER. Most of our funding has been through revenue bonds. We have had geo-bond in the past; at the present, we do not.

Chairman DOMENICI. And would you tell me, what were most of those bonds used for, the proceeds?

Mr. MANCHESTER. The revenue bonds?

Chairman DOMENICI. Yes.

Mr. MANCHESTER. We have funded such things as additions to the police station, the fire station, airport, addition to the civic center, as far as revenue bonds. Our utility system has had general improvements from water, sewer, and electric service, and we have one revenue bond issue which was issued to buy a portion of San Juan Unit 4—quite large issues.

Chairman DOMENICI. So those bonds, their value and rating is based upon a general commitment by the local unit to use that source of revenue to pay the debt, or is there some allocation or specificity within your funding?

USER FEES GUARANTEE BONDS

Mr. MANCHESTER. In part of the cases, it is user fees based upon electric, water, and sewer rates. In other cases, it is primarily gross receipts taxes that back that up.

Chairman DOMENICI. Yes, sir?

Mayor GOOD. Senator, in Aztec, we are at our general obligation bond limitation. Those funds are basically being used for capital improvement projects that do not fit in the category of utilities. In terms of city utilities, such as power, water, sewer, et cetera, the city's share of those major projects have been basically funded by revenue bond issues.

The limitation of user fees is a significant factor, too, Senator, that you should be aware of. In most small communities, the necessity for satisfying the obligations under those bond issues has caused us to maintain user fees generally at levels that come aw-

fully close to the level of tolerance of the citizen. So, looking at increased user fees as a means of helping with the revolving fund, for instance, it is a very limited coffer and one that causes us a lot of political problems.

Chairman DOMENICI. I think that is right, and I think Secretary Fort's observation on that is correct. But I do not think in an overall plan, one would have to, over a long period of time, be looking at increased user fees, but rather, user fees that were going to be built into the system already are, as you have described it.

Yes?

Mr. LUTHER. Senator, I am the director of the local government division of the State department of finance and administration. I just wanted to mention, in relation to general obligation bonds, that these by law are limited in scope. If they are not for water and sewers, then they are limited to 4 percent of the assessed valuation in the city or county, so that they are restricted somewhat, and that is why I think you have seen a lot of municipalities going to revenue bonds.

Chairman DOMENICI. Yes, I understand.

Yes?

Ms. WILLIS. I have a question, Senator. I can see some real possibilities for this bill, even though it does have the limitations that Ms. Fort pointed out. But what you did not specify in the bill for one thing was what would be the basis for no interest loans, and also, I wasn't real clear on the idea of—it sounds like refinancing the current issues of bonds that you have and possibly stretching those out. These would be a real help to small cities that do have several revenue issues, because it would at least, then, provide us with a longer term to repay the loan, and that by consolidating it would help our current situation.

TRANSIENT POPULATION CAUSES PROBLEMS

We do have a problem, probably more in this area of the State than in other areas of the State. As you know, geobonds are also imposed by referendum, and because a great deal of our population in the past has been somewhat transient—there have been a lot of rental units, as you can see if you look around. These people are not hit with those types of taxes. For this reason we have tried—it is very hard—generally, those who own property are the ones who go to the polls and vote, too—it is very hard, No. 1 to pass a bond issue, and No. 2 it seems to be a little unfair in putting the burden on local property owners to finance projects for the transient members. So we try to keep as many revenue bond issues going as possible and not use as many geobonds as you might otherwise expect in order to make this cost a little more equitable among everybody.

Chairman DOMENICI. I understand.

GOVERNMENT MADE A MISTAKE

With reference to the specific questions on the infrastructure bill, you must know that that is a very dramatic departure from the previous way that the Federal Government has assisted with public works projects, and therefore, it is very hard the first time through to draw up the legislation. It is intentionally very general,

and will require a great deal of hearings and fact gathering before it is finalized. But let me just leave you with this thought. Our National Government may have made a very significant mistake over the past 25 years in not—well, let us put it in the positive—in assisting local units of government with grants that, once you have put the money out, it is spent, as contrasted with having a major portion of it be a national revolving fund for the local communities to match up with other financing arrangements that they have. We have spent literally billions—the second largest public works project or program in the country is the wastewater treatment, for instance. There is no doubt in my mind, having read the New Jersey analysis, that we would have been far, far ahead of the game if the \$40 billion nationally—if we used that to disburse to the States for revolving fund purposes at low, low levels of interest rates to be matched. Since there was always a match anyway, and there were always user fees, we would have probably accomplished many, many times more in terms of total projects than the \$40 billion that we spent, because you put it in and it is gone, and it was matched with local money and local finance arrangements, and it is just obvious from the review of it that that would have been an exciting one to have done another way.

NEED TO LOOK FOR SOMETHING DIFFERENT

The Secretary is right, however. We do not think it fits highways. We do not think it fits a lot of other things. But the purpose is to experiment with something innovative that, since we are going to have to spend so much more in the next 25 years on infrastructure, and there is no sign that the National Government's grant program for fiscal improvements is going to be able to increase that dramatically—under any scenario of economic recovery, we are not going to be able to increase direct grants three- or fourfold, and yet the needs in the country seem to be three- or fourfold greater than the sum of the categorical grants in waste water treatment and the like, and we have to try something different. So it is in that context that we are looking for something different.

Unless any of you have anything you want to add, we are already behind schedule, and I want to thank you all very much.

MORE LOCAL PROGRAM FLEXIBILITY

Mr. BARNHART. Senator, I would suggest one other thing that would be a very good plus to what you advocated, and that is, more visibility locally on some of these grants. One of the problems is we all interpret things in terms of our own experiences, and I have found out—and it is my bias, coming from the Southwest—that there is a more prudent management approach to some of these things than there is in other parts of the country, and if we can get more local oversight, if you will, and attention to some of these things, we can have a lot more mileage for the dollar than simply some grants that are put out and then forgotten. And this, I think, would provide for a continuity of oversight.

Chairman DOMENICI. And also flexibility. I mean, targeted programs are very limited, and if you could create the other where

you had more flexibility of draw, I think it would add significantly to the inventory of capital improvements.

Mr. WAGNER. Senator, one final comment. You do not have to pay back the grant.

Chairman DOMENICI. Oh, I think that is a plus from everyone's standpoint. But the State of New Jersey contends that when they finish putting a package together for one of their communities, made up of the equity that the State put in the infrastructure, the money that the Federal Government would otherwise be spending, and a commitment for a number of years of the user fees, that they are going to be able to put the package together where the annual payments are not going to be very much larger than what is being paid now for the match and the allocation of the user. That is merely a function of figuring out a financeable package, and they maintain that they now have it on paper that it is not going to end up costing very much more, and the fund remains for use by somebody down the road. That is basically the thrust of it. And if it did not use that test, obviously, it would not be used; there would be an opportunity to go another way.

Thank you all very much.

The next panel is a transportation panel, including Jack Morgan, State senator; chairman of the State highway commission, Sosimo Padilla; Jim Chaney, a State highway commissioner; Lorenzo Larranaga, chief of the State highway department; Gus Byrom, Farmington transportation director; Hank Pohlmann, energy user; and John Davis, Atchison-Topeka-Santa Fe, accompanied by Jack Campbell.

Well, obviously, we have a very distinguished panel, and we are delighted to have all of you appear with us. We allocated about an hour for this panel, and we are about 15 minutes late, so I am not going to hold you to staying on schedule but would ask that you be as brief as possible, and if you have written statements, we will make them a part of the record if not read.

Let's start with Senator Jack Morgan. Now, this is a transportation panel, but you all are people who have broad observations about capital improvements and the like, and if you want to comment beyond that, certainly, you are free to.

Senator Morgan, glad to have you.

STATEMENT OF HON. JACK MORGAN, NEW MEXICO STATE SENATOR

Mr. MORGAN. Thank you, Senator Domenici, and Mr. Barnhart. Senator, I believe we are back in the same meetingroom where we met together some 10 years ago to discuss what was then a crucial concern in the San Juan Basin area, and that was the development of a transportation system to adequately serve not only the citizens of the area but also to provide for access to and from the energy resources in the area.

CHAIRMAN COMMENDED FOR HIGHWAY ASSISTANCE

Mr. Chairman, I would like to commend you for all of the assistance that you have given to the pursuit of funding for the development of a more adequate transportation system in the area. As you

well recall, it was due to your efforts that some \$25 million was made available through a rather unique vehicle through the Congress to provide for some fundings to free highways in the Basin area, those highways being State Road 371, U.S. Highway 666, and State Road 44. During the intervening 10 years, Senator, the State of New Mexico, in my opinion, has responded to the initiative that you started and has recognized to a large extent the transportation needs of the area. So we are pleased to again be afforded the opportunity to discuss with you some of the continuing needs for transportation facilities, including not just highways, but also railroad facilities, to the San Juan County area.

In my comments, Senator, I would like to just briefly be general with respect to the status of the highways that you have over the years been interested in and leave it to the highway department folks to be more specific.

HIGHWAY NEEDS

There has been much progress in the construction of State Road 371, due to your efforts and the responding efforts of the State of New Mexico. It is my understanding that we are within two projects of having State Road 371 completed from the bluffs south to at least Crown Point. We do have, however, some concern that the bypass in the area from the bluffs down into the city of Farmington to accommodate U.S. Highway 64, 550, and 371 can be meshed in some appropriate manner and that the funding for that project can be obtained.

Senator, Highway 666, I believe, perhaps, is maybe ahead of schedule as we envisioned its progress 10 years ago. I am not too acquainted with the status of the completion of the project out there, but I understand that they are moving along rather progressively. We are, however, Senator, still in the position of having some rather severe shortfalls as far as State Road 44 is concerned. There has been much improvement that has occurred, but there are, I believe, some 40 miles, Senator, where the 40- to 60-ton trucks are traversing that road with passenger vehicles in a situation in which you have nothing more than the two travel lanes and no shoulders. And I believe you, as well as the Department of Transportation, would acknowledge that that can very well be a frustrating experience not only for the people who drive trucks, but for the citizens who traverse that highway, to have no margin of error as they pass along the way. And it is my impression that there are some 40 miles of highway in that condition.

We do need to address attention to the development of U.S. Highway 64, and also as the hauls from the coal development in the La Plata area increase, there should be significant attention given to State Road 170, with which I am sure you are familiar.

RAILROAD NEEDS

Senator, I would like to move just briefly, if I may, to the railroad needs in the county, which in my opinion do constitute an important element in the infrastructure situation of the San Juan Basin area. As you may well know, San Juan Basin is the only area in the State of New Mexico not presently serviced by a rail-

road, either a spur or a main line. And in the San Juan Basin area—it depends on whose figures you use—but it is my understanding that there are some \$4 billion to \$6 billion tons of recoverable, strippable, low-sulfur coal that could well compete in the marketplace out there in the Southwest and elsewhere should there be a transportation system put in place such as a railroad. And efforts have been made at the State level to encourage the development of a railroad transportation system.

Senator, I have a number of statements that were submitted to my Energy Resources and Transportation Committee which do detail the market for and the need for justification for a railroad system into the northwest quadrant, and with your permission, I would like to leave with your staff copies of those statements that were submitted during the last year and during the recent session of the New Mexico Legislature.

Chairman DOMENICI. We will be glad to accept them, Senator.

Mr. MORGAN. Fine. Thank you.

COMMENTS ON BILL

My time is almost up, Senator. I would just like to briefly comment on Senate bill 532. It appears to me that you again, perhaps, are developing a novel approach to address the needs out there, and in this case, needs in the State of New Mexico as well as the rest of the Nation. It would be my hope that as this bill moves along, we might be able to refine some of the eligibility provisions so as to address the needs of those States such as New Mexico that have significant highway funding needs, but at least to this point, methods to satisfy those needs at the State level have not been fully developed. And in the event you might consider working the terms of the bill around to the point that some kind of low-interest rate loans or no-interest loans might be available to States to utilize in their highway systems, but also provide for a repayment provision that could involve the pledge of some revenues, road user fees and revenues that come into the States, it would seem to me that such a provision might strengthen your bill.

Another concern I have in examining the bill is whether or not, under the terms of the bill as drafted, a State might utilize the availability, of loans or guarantees under your bill to assist in the development of some kind of funding vehicle to address railroad needs in the State of New Mexico, not just the northwest quadrant, but statewide.

With that, Mr. Chairman, thank you very much.

Chairman DOMENICI. Thank you, Senator. I appreciate that.

FUNDS ALLOCATED NEED TO BE SPENT

Chairman Padilla, let me first say to you, you and I have known each other for many, many years. I am very pleased that you are the Chairman of the Commission, and I know you are going to do a good job. I congratulate you on your appointment in one sense, and I extend my condolences to you in another. You will be pulled from one part of the State to another, in terms of their needs, and you will end up thinking you are actually having your arms pulled off. But basically, I know you are going to attempt to be fair and equi-

table and to keep the Highway Department in a posture where they are ready to spend the money that we have made available. We have had times in the past when significant amounts of money that were allocated by the Federal Government were not used because we did not have the projects ready to go. That is ancient history. I commend you and Larry and the Commission for changing that. You started a few years ago, moving in the direction of spending and getting allocated what we had available, and I hope we continue that. You know you are going to have significant new money over the next 4 or 5 years over what we had before, and I am hopeful that it will be put to good use. I know that that will be your intention, and I am delighted that you came today to share your ideas with us and that your chief is here with you, and I commend him. Larry, I am very proud of what you are doing, and everything I hear tells me you are doing an excellent job. Thank you also for coming. In terms of your testimony, you can do it, the two of you, however you want. If you want the chairman to proceed first, that is how I intended it, but you are both talking basically about the same thing, so I will leave it up to you to handle that.

**STATEMENT OF SOSIMO PADILLA, CHAIRMAN, NEW MEXICO
STATE HIGHWAY COMMISSION**

Mr. PADILLA. Thank you, Senator.

It is indeed a pleasure for me to be here. This is one of my first meetings as chairman of the highway commission, and of course, it is an honor to have Ray Barnhart here. I met Ray a few years ago in Sun Valley, Idaho, when he was the highway commissioner for the State of Texas, and of course, I have known you for a long time.

Before I go any further, I would like to introduce the newest member of our highway commission, Ms. Dibrine, from district one, who is sitting back there. I think she is an old classmate of yours from Saint Mary's.

Chairman DOMENICI. Indeed she was.

Mr. PADILLA. And she was very interested in coming up here, even though she was not on the panel, so I did invite her, and it is a pleasure to have her here.

Chairman DOMENICI. Well, why don't you come on up; we will pull a chair up so we can at least see you better.

Ms. DIBRINE. This is fine.

Mr. PADILLA. Anyway, Senator, I know the last time I introduced you, I made a terrible mistake. I was very young in this kind of business and so were you. You had just become a U.S. Senator, and we were breaking ground for a new bank in the South Valley in Albuquerque, and we had another distinguished Senator there, Senator Montoya, in the audience. As I tried to introduce all the dignitaries who were there, I kept saying what this Senator had done, and on and on and on, and Senator Montoya started getting up to speak, and I said, "Senator Pete Domenici." And I never forgot that, and Senator Montoya, every time he would see me, he would ask me, "How come you introduced Senator Domenici first and then me?" because he was a senior Senator. Anyway, I apolo-

gized to Senator Montoya, and it is indeed a pleasure to have you here, Senator.

Chairman DOMENICI. Well, we only have one here today, so we won't have any trouble. [Laughter.]

Mr. PADILLA. I won't have any problems.

But anyway, I just became the chairman about 2 months ago, and I am hoping that I will be fair to the whole State of New Mexico, not only my district. The northwest quadrant of the State has always been very close to me because that was my first meeting as highway commissioner, and indeed I enjoyed that first meeting, and the people were fantastic. I was very green at it. I really did not know what I was doing, but I have been on the commission now for 4 years, and I will go on with my testimony and present some of my remarks that I believe the State of New Mexico needs.

HIGHWAYS PRIMARY FACTOR FOR ECONOMIC DEVELOPMENT

Mr. Chairman and members of the panel, distinguished guests, and members of the audience, the highways in the northwestern section of New Mexico have long been recognized as a vital force in the development of the State's economic wealth. I am pleased to report that these highways are working for us and will be a primary factor in the continuous promotion of economic growth in New Mexico.

NORTHWEST TRANSPORTATION COMMITTEE

The country's need for coal, oil, and gas has brought about an energy boom never before seen in New Mexico's history. This boom has resulted in the need for an improved and safer network of highways. Over 10 years ago, highway commissioners and department staff, State, county, and municipal officials in northwestern New Mexico, members of the Navajo Nation, and representatives of private industry joined forces to organize what we know today as the Northwest Transportation Committee. Prior to the committee's inception, these groups had become increasingly aware of the importance of New Mexico's great reserves of coal, oil, and gas. All parties agreed to accept the great responsibility of developing the economy and promoting the funding for highway improvements in the energy development areas.

As a result of the sincere and time-consuming efforts by the committee members, New Mexico legislators and congressional delegation members, moneys were made available, and these roads have become an integral part of the State's vast energy development support system. A statewide sense of purpose has been a factor in expanding New Mexico's energy resources. This sense of purpose has helped in the development of an improved highway system.

As far as the future is concerned, I can only ask for your continued support as well as the support of the elected officials throughout the State.

Ongoing consideration must be given to the impact of the energy belt on the economic welfare and the progress of New Mexico. I know that the support is there. We face many problems that are not easy to solve, but are ones that we as a team can and must resolve.

This is my written testimony of our panel here with you, Senator.

I would like to comment on a few things that Senator Morgan mentioned awhile ago, for instance, U.S. 66 and U.S. 44, and he mentioned on U.S. 44 about the 40 miles that we have not quite completed, but we also have completed 45 to 50 miles of Highway 44 on which we spent a total of almost \$32 million.

You know, Highway 44 reminds me of the bridge in San Francisco—you start painting it at one end, and by the time you get to the other end, it is gone. That is the way Highway 44 is. And if we do not continue to get enough money for it, because of the high traffic count that we have on Highway 44 and the heavy trucks, it is going to be hard to maintain forever, unless you widen it to a complete four-lane highway and spend not only \$31 million, but probably \$150 million, on Highway 44.

COMING ON LIKE GANGBUSTERS

I would also like to comment that since I have been a member of the highway commission, the Navajo Nation, the Pueblo Indians, and other Indians on the reservations, have found out that I have a soft heart for them, and they have been coming like gangbusters at me at the highway commission. In fact, Senator Pinto was so influential on me during the last legislature that he proposed that we change one road and build a road in his part of the area, which we have done, and we went against our own policy, and some of my commissioners were very disgruntled by it, but since we got some new commissioners, I was able to do that, and Senator Pinto was very pleased. I did not appreciate the fact that some of the children in the area of Senator Pinto's part of the reservation had not attended school but 50 percent of the year. In this day and age, in this great country of ours, if our children cannot at least attend school 90 percent of the time in school because of bad roads, then we have a serious problem. And I am glad to hear that there is going to be moneys allocated toward not only the Navajo Reservation but other areas of the State, where the Indians are concerned. It will be quite a bit of money, and that way, we can provide good roads to these people.

Senator, it is a pleasure for me to be here. Being from Albuquerque, I will guarantee you that not only Bernalillo County will we serve with me as chairman, but the rest of the State in general.

Chairman DOMENICI. Thank you very much.

Mr. PADILLA. Thank you, Senator.

Chairman DOMENICI. Before we call on the chief of the State highway department, I do want to acknowledge the presence of another commissioner, Jim Chaney. He has been a stalwart in terms of representing the various interests in the State. I want to acknowledge that from my standpoint, he has been extremely helpful to me. From time to time we have discussed issues with reference to our highway needs, and Commissioner Chaney, I am delighted that you could join us. I think we ought to proceed to hear from you before we hear from the chief. I appreciate your coming, and we would be delighted to hear from you at this point.

STATEMENT OF JIM CHANEY, NEW MEXICO STATE HIGHWAY COMMISSIONER

Mr. CHANEY. Senator Domenici and ladies and gentlemen, as a highway commissioner representing a district which includes the northwest part of the State, I am pleased to have the opportunity of appearing at this Senate Budget Committee hearing.

Northwest New Mexico is a land rich in oil, gas, and coal resources vital to the national interest, and an adequate roads system is essential to the orderly development and wise use of these resources. Such development and use is in turn important to the economic good health of the people living in this area.

HIGHWAY PROGRAM SLOW IN STARTING

The State Highway Department, aided by Federal funding and moneys provided by our own State legislature, has made excellent progress toward improving and maintaining existing State highways in this area.

The only thing that I can point out, Senator, is that we were several years late in starting this program, and it has thrown us behind, and we are having a hard time catching up now.

U.S. 550 has been four lanes between Shiprock and Aztec and resurfaced north of Aztec to the Colorado border. Work on U.S. 666, which connects Gallup and Shiprock, is almost completed.

Considerable work has been done to improve State Road 44, which connects the northwest with the Albuquerque metro area, and in the last session of the legislature, we were very fortunate when the legislature provided an additional \$5 million for improvements to this road.

Much work has been done on State Road 371, which provides Farmington with a direct link to Interstate 40. Two final projects for this road are scheduled for this fiscal year. That is a very important link to the area of Farmington.

I would like to say also that Senator Morgan has been very helpful with regard to our State legislation for these items.

The recession has had a serious impact on both State and Federal budgets. I would hope, however, that appropriate funding can be found, both at the State and Federal level, to meet the transportation needs of northwest New Mexico, not only because of the effects on people living in this area, but also because of the importance of the area to the Nation as a whole.

I would like to say at this point, and reiterate some of what Senator Morgan has brought out with regard to State Road 44. The 40 miles that he has referred to is very dangerous. It is a safety hazard with heavy trucks coming to this energy area and with a lot of heavy residential traffic, it is definitely a safety problem for us, and although we have worked on State Road 44, most of it has been toward the Albuquerque area; very little has been done to this area here. So I would like to impress upon you that this has been going on for a number of years. We just did not start our program early enough, Senator.

The recession has really been an impact on both the State and Federal budgets. However, that appropriate funding can be found both at the State and Federal levels to meet the transportation

needs of northwestern New Mexico, not only because of the effects on the people who live there, but also because of the importance of the area to the Nation as a whole.

Now, Senator, I think certainly, if we can utilize the bill as it is written for use in this area—and I see no reason why it should not be fruitful, but I do not think any of us really understand it; I do not understand it as well as I should, I will be the first one to admit—however, it does have possibilities, and I think that by working with you and so forth, we are certainly willing to do that to get any kind of help.

We know from the standpoint of funding that all of our roads in New Mexico, as well as in the Nation, are in trouble if we don't maintain them right, and this has not been done in the past for adequate upkeep.

I would also like to mention another thing that Senator Morgan talked about, and that is your help with regard to highway funding in the State of New Mexico. It has been tremendous, and without your help, we could not do what we are doing today, and I think we are doing a pretty good job in New Mexico with what we have at this point.

Thank you.

Chairman DOMENICI. Thank you, Commissioner.

Chief, we would like to hear from you now.

Mr. LARRANAGA. Thank you, Senator Domenici.

Mr. Barnhart, welcome back to New Mexico. I hope we see you as often as we have seen you in the last 2 or 3 months—and bring some more money with you.

CHAIRMAN HELPS WESTERN STATES

Mr. BARNHART. Larry, I must tell you because it has been weighing on me, and since several of the gentlemen have mentioned it, you have referred to the Senator—and I say it not simply because he is here, but because it is true—during the debate on this new bill in the lame duck session, we had a very serious problem on formula because it is so important—and I want you all to know that if it had not been for the Senate and this Senator and his involvement in getting an accommodation, a modification, to the formula that was enacted by the House, this State and every State west of the Mississippi, except for the State of California and Washington State, would have suffered severe losses. But it was because of some very intense negotiations, some hardnosed activity, that the States west of the Mississippi were not genuinely abused, and I think that is a plus that you ought to know about when you talk about his work.

Chairman DOMENICI. Let me tell you about something—and I am not going to take this away from your time. That was a very fun experience for me.

Mr. BARNHART. I am glad it was for you. [Laughter.]

GAS TAX ALLOCATION FORMULA TO STATES

Chairman DOMENICI. We have some municipal and county people here, and you spoke about revenue sharing. Well, actually, the way we solved the highway allocation formula was something like this.

The House passed a bill for putting the 5-cent gasoline tax on, and they were intent on resolving what they perceived to be a 20-year inequity where more than our fair share of the money comes to States like ours, and less than their fair share goes to States like New Jersey and Pennsylvania. So they established a formula to undo that injustice, in their opinion, all in one shot. While we were going to pay it in new tax, we were going to get less money than we started with. I was driving home one evening, and Linda had given me the House formula, and something popped in my mind that we had a similar problem with general revenue sharing. The House prepared a bill that focused all the revenue sharing on the big cities. The Senate had a revenue-sharing bill that was more generous to the less-populated areas. On the way home, I said, "I wonder how we solve that problem." So I went to work the next morning, and I found out that the way that was solved was to go to conference with the House, and we take the two bills, and we put them together, and we use the highest allocation in each bill, add it up, draw a line, and then take a percentage cut from everyone to get it down to the \$5 billion. So I said, "Why don't we do that with highways?" My staff's first reaction was, "You're crazy." But we ran it through the Transportation Department, and it worked.

So, the way we did that, the House had a formula that heavily funded for the primaries, the Eastern States; we had one that heavily funded the West. So we went to conference, and we said, "We just put them together, and we do not have one formula. We just have an allocation. We will use the highest in each case."

We drew a line and added it up, and it turned out we had to take 9 percent off everybody, but everybody got the highest. That is how come we got \$44 million more here. It was rather exciting, because that bill also had \$1 billion for mass transit for the first time in history. And some of us who wanted to see fairness voted for that in the Senate, even though some of our Senators did not want it. So that was nice leverage, too. They either went with us on this new formula, or we assured them that the bill would die, and next year there would be no mass transit, because none of us would feel disposed to be generous twice, and you should have seen how quickly it was resolved. It took about 1½ hours, and they came back and said, "For the next 5 years, we will do it this way."

So that is how it happened. I thought I would share it with you, because it was really one of the most exciting negotiations I have had, and we turn out coming out fairly well, as do most of the Western States.

Larry, go ahead and proceed with your testimony.

Mr. LARRANAGA. Thank you, Senator.

STATEMENT OF LORENZO LARRANAGA, CHIEF, NEW MEXICO STATE HIGHWAY COMMISSION

Mr. LARRANAGA. It is good that you can arm-twist in that direction to provide us more money. This year alone, New Mexico received some \$32 million additionally, and it would increase from \$95 million up to something above \$120 million for the next 4 years for State highways in New Mexico, which is something that I be-

lieve that the public should know, and it is certainly needed, as I will so say in a few minutes.

I want to echo first the remarks in thanking you, Senator, and your able staff for organizing this meeting. It is encouraging that the opportunity has been given to the local public here, as first-hand information for some of those issues that I believe are so vital to them. One of those, naturally, is transportation.

HIGHWAY DEPARTMENT ACCOMPLISHMENTS

I want to share with you some of the accomplishments and problems that the New Mexico Highway Department can foresee in providing those adequate highway facilities for New Mexico and visitors from other States. As you know, thousands of miles of roads and streets have been constructed and improved with the most modern design standards. However, even with all of this progress, there are many miles of roads and streets that are not adequate for today's travel characteristics, and we understand that well.

Our future population growth and increase in motor vehicle travel will place additional demands on these existing facilities and create, of course, new problems, and none of those can be exemplified any better than some of the problems that we see coming to the northwestern part of New Mexico.

HIGH INCREASE IN HIGHWAY USAGE

New Mexico is fortunate in one way, I suppose, and unfortunate in another way, to be a growing State, and the number of vehicle miles of travel in New Mexico is probably best indicated by the use of the system. For example, in 1970, there were approximately 20.4 million miles of travel per day on New Mexico roads. In 1980, this has increased to 30.9 million miles of travel per day. This represents a 52-percent increase in just 10 years. Even more importantly, the vehicle miles of travel by commercial vehicles is expected to increase from 2.6 million average daily miles of travel in 1980 to 4.7 million daily miles of travel in the year 2000. This is a 76-percent increase in this commercial travel.

Chairman DOMENICI. What do you define as "commercial"?

Mr. LARRANAGA. That is the trucks, anything that is above a pickup truck carrying any kind of goods as a form of making a living through the roads themselves.

In view of these travel growth projections, future highway needs plus the accumulated backlog that we have had will be very great. Pavement deteriorates faster as traffic loads increase over time, which means that the projected increase in vehicle traffic will cause our highway systems to deteriorate even faster than they do now and further strain our ability to adequately maintain and improve these facilities unless immediate action is taken. And admittedly, the added money that we get from the new Surface Transportation Act is a big boost for us, and it will probably help—not probably—it will help in this area to keep us abreast in providing those services in transportation that are so vitally needed in New Mexico.

DELAY OF MAINTENANCE COSTLY

Along with the problems associated with increased use of the system, we are also faced with the consequences if we defer improvements in maintenance and reconstruction of some of these roads. These consequences are all well documented, and many studies show that long-term costs are substantially increased if maintenance and improvements are put off for too long. For instance, considerable savings can be realized through proper timing or strategy for rehabilitation of the pavement surface. For example, in a given time of 16 years of pavement life, a road deteriorates approximately 40 percent in the first 12 years of its life, but it will deteriorate another 40 percent 3 years of its life. That is, after a certain point, roads get worse more quickly.

To cite an example in the way of money, if you use the first 40 percent of reconstruction, it would cost us about \$100,000, but if you wait an additional 3 years, it would cost upward of \$400,000 to maintain these, in just that short period of 3 years, which is to say that taxpayers pay dearly to drive on roads in fair to poor condition if maintenance is put off for too long.

We have made some strides and some improvements in these areas. Some of those have been brought forth by Senator Morgan. Our two commissioners here have spoken about those systems that lead to Farmington and the northwest area. For example, State Road 666 has been mentioned. All of that has been reconstructed since 1978 through this period. Approximately \$34 million has been spent on that one. U.S. 550, approximately \$11 million has been spent on that, and that is virtually complete as far as the first type of improvement. The Chairman of our Commission said we have spent \$32 million on State Road 44. We have some problems in that area. We have all but two of those projects at this point programed, but those two projects are somewhere in the area of 15 to 20 miles that we still do not have in our 5-year plan, because the money is just, frankly, not there, in that one particular system to be able to accelerate those programs and bring those up to the standard that we would like to see.

PROJECTED COST OF MAINTENANCE AND RECONSTRUCTION

Just to give you an example of what the cost would be for road maintenance and road reconstructions, for the next 25 years, New Mexico would need about \$6.4 billion to bring that total State system to standard that is needed for this particular area. I bring this forth just to indicate the problems and the need for these long-range solutions. We know that it is an ongoing problem. We are never going to solve it completely. The Chairman of the Commission said while State Road 44 seems like the same kind of project that they do at the Golden Gate Bridge, well, I begin to feel like every road in New Mexico has that same problem, and as I look at those roads throughout the State, I say each one of those roads is a continuing problem. I guess I could say that maybe that should be a good indication that I am needed or I have job security, but if we do not improve those, believe me, I will not have job security.

Your bill, Senator Domenici, is at least one view in providing for public works and infrastructure investment financing. Even though

you mentioned that this probably would not be in one area in transportation where it would be implemented, I believe it has some validity, and I believe it has some merit in the future to provide that kind of financing to accelerate and advance some of those projects. We have done this with the advance of construction of interstate, so we may finish our interstate, and our last project of our interstate just went to contract in February of this year. We did that by going to our legislators and just saying, "We need to complete that before it gets to the point where we will be at a point of no return." Last year, \$38 million was provided for us to advance the construction of interstate. That money will be repaid as the Federal Highway Administration brings back our money and we complete those, and we will not go over our obligation ceiling rate, but we will repay that money to the general fund as that money is provided back to us. It has been a good program to advance those projects. We have made some inroads there, but we still have some very, very vital problems in our primary systems, and we have some real problems in our secondary systems.

I have placed a map up there on the little bulletin board there, to show those particular roads that lead into the Farmington area, and I have outlined each one of those that have been completed, those that are programmed, those that are under construction, and those that we provide no funding for. The blue marks in the lines themselves are the ones where at this point we do not have those programs into our 5-year plan at this point because there is not enough money in that particular system.

So, Senator, I wish you would at least consider the idea that more money is needed for this particular area, even though we got a good boost in the arm in this past session to provide some more funding for this area.

I have prepared a statement of the Farmington Regional Transportation system study that was made by the highway department a couple of years ago. I will leave copies of that here in the area for the public here, or maybe I will give Linda or some of your staff a copy of that report, just to show what the needs are in the surrounding areas themselves, besides all of the other roads in the State.¹

Thank you for the opportunity, Senator.

Chairman DOMENICI. Thank you very much.

Mr. Byrom, Farmington's transportation director, you are next, and then we will take two witnesses who want to talk more about the railroads, and let's move ahead as quickly as we can.

HIGHWAY FUNDS INCREASED THREEFOLD

Before you testify, let me just say, in terms of the maintenance that you spoke of, Larry, it is obvious that we need more money, but I think we made a pretty good step between 1982 and 1983. My numbers would indicate that for Interstate 4-R, we got \$13.5 million in 1982, and you will get \$31.9 million, almost \$32 million, in 1983. I wish it was \$131 million, but that is a pretty healthy jump. We do not have 1984's with certainty, but obviously, it will be at

¹ See p. 43.

least the \$32 million. I will give you a rough estimate. We think it will be right at \$40 million for 1984, and then remain constant under the bill for the life of it. So that is not going to be enough, but it is approaching three times as much as you had in 1982, so I think that is going to be helpful.

NO LAPSE IN USE OF FUNDS

Could I just ask one general question now. With reference to the funds that come down from Washington under the act, administered by Mr. Barnhart, can you assure me that we are not going to have any lapse of any of that money?

Mr. LARRANAGA. Senator, I am 99 percent sure at this point that we are not going to have any lapse in money. In fact, our goal for this year is to get into the redistribution in August, and hopefully, we would have the projects out and everything all lined up where New Mexico can get some of the money that some of the other States will not be using, and we are planning right now to recoup somewhere in the area of \$25 to \$30 million additionally from the redistribution moneys, and our good neighboring State of Texas, they tell me, is not going to be able to use all of that money this year, and the State of Colorado will not use that money up to their obligation ceiling. This is our plan for now. We are pretty well assured that there will be no money, and the fact is, hopefully, we will get \$25 to \$30 million worth of projects from the redistribution, Senator.

Mr. BARNHART. Senator, these returns that you mentioned do not include discretionary funds.

Chairman DOMENICI. That is correct.

Mr. BARNHART. In talking to my regional and division administrators, they assure me that there has been remarkable improvement, shall I say, and progress in obligating funds, and I think they do anticipate some significant increases in allocations.

Chairman DOMENICI. Let me just comment here in the presence of the Administrator that I am sure he is aware of the fact that we did provide in the bill for redistribution of lapsed, nonallocated money. Now, we cannot give you any assurance as to how much you will get, but the language now in that act says, basically, that any unallocated money—and we have had it all the time, every year—that it is his responsibility to take that money that has to be reallocated, and the way we phrased it was, giving priority to those States that, in the 1981-82 timeframe, did not get increases in their allocations, but were cut back because of the 1982 bill. We added to that, as you know, by separate appropriation, but that will be his responsibility to interpret what that means, priority two. We are delighted that he is here, and I interpret his last remarks to be that he clearly understands what we had in mind. [Laughter.]

Why don't you proceed now, Gus. We are delighted to have you here.

Mr. BYROM. Thank you, Senator.

STATEMENT OF GUS BYROM, FARMINGTON TRANSPORTATION DIRECTOR

Mr. BYROM. Farmington is truly the work center of the Four Corners area, with many major energy companies here, the coal-fired generating plants, large reserves of gas and oil, and we have many people involved in this business. Because of that, Farmington provides a great part of the infrastructure of this region. We provide most of the potable water in the Grande Valley. We also provide most of the domestic electric service in the county, and of course, the center city, with its residential and commercial areas, and many miles of paved streets, water lines, and sewer lines—hundreds of miles of each, actually.

AIRPORT OF PRIME IMPORTANCE

So, being that work center, transportation is of utmost importance. First, to do with the airport, it has been said many times today, and it will probably be said again, but Farmington is not served by a railroad, it is not on an interstate highway, and there are many miles between here and our principal cities of interest. It is 3½ to 4 hours of hard driving to Albuquerque or Santa Fe, 9 hours to Denver. The people around here know that, but your compatriots in Washington might be surprised at the distances that we encounter out here in the West. So our airport is of prime importance. Last year, even with the slowdown in the economy, we handled over 80,000 airline passengers in and out of Farmington, and we expect this to increase. Actually, several years ago, in 1979, it was higher than that, but we have had a slowdown like most of the airports in the country.

IMPACT OF GOVERNMENT POLICY ON AIRPORT

Now to elaborate on three basic areas where Government policy has impacted or will impact our airport. First, the air traffic control tower. In 1981, when the air controllers struck, our tower was closed by the FAA. First, those of us locally thought that we could get along without that facility, but very soon we found out that it was not a safe operation. We had several near misses, a number of other incidents, that prompted local citizens—and I must mention Mr. Al Grier, who almost singlehandedly led the local effort to get our tower back in operation. Well, the city leased the control tower from the Government and hired a private firm of controllers. That was done at city expense, by the way, For 9 months, the city carried that burden of about \$72,000. At that time, new legislation permitted the Federal Government, through the FAA, to reimburse the city for the contract controllers.

We are now completing the first 6 months under this arrangement, and we are very pleased with the success of the program. Our tower operation was recently inspected by a Department of Transportation evaluation team, and they reported—and I quote:

Midwest Air Traffic Control is providing satisfactory air traffic control services and has an excellent working relationship with users, airport personnel, as well as other FAA facilities.

We certainly hope this program will continue, as we have an excellent tower operation, and I feel certain that the Federal Government is saving money with this system.

This did not just happen. As I mentioned, we had a local individual who ramrodded the effort here, and of course, in Washington, Senator, I know a lot of us seem to be thanking you, but a great amount of thanks is due you and your efforts to get that program. It is not only benefiting Farmington, but it will benefit many cities in the country.

Chairman DOMENICI. Is the reimbursement program working now?

Mr. BYROM. Yes, sir.

Chairman DOMENICI. And they are not making any undue requirements on you as a condition for reimbursement?

Mr. BYROM. We have just completed the first 6-month contract. We have a second contract that is being negotiated at this time. There is a little concern about minimum wages for air traffic controllers. I think this is being resolved. Other than that, we are happy with the program.

Chairman DOMENICI. I, too, want to thank Mr. Grier for his interest. It was a result of his interest and foresight that we were able to change the law to put in the reimbursement. It was not in the law before, as you know. It is law now, and it is, obviously, up to the Department of Transportation to carry it out, and I am pleased that they are. If we run into any snags, I hope you will let us know. Basically, we never intended that you be compelled to run the facility precisely as the Government did before, because if that were the case, there would be no reason to do it. We could just go back to the old air traffic controller requirements and let the Federal Government do it. So you were permitted to have some discretion, yet they were permitted to exercise some oversight in terms of its adequacy. I am pleased that it is working. You should not have to pay very much money in the future if that works. I hope you and the mayor will let us know if it does not.

Mr. BYROM. Thank you.

NEED INSTRUMENT LANDING SYSTEM

Our next area regarding the airport is the fact that we desperately need an instrument landing system. Farmington has the air traffic and weather conditions to warrant the installation of such a system. However, the FAA has informed us that the program for the installation of this system for Farmington would be sometime between 1990 and the year 2000. Now, there are many reasons for this delay, and we will not take time in this hearing to discuss them. But we feel that it is too long a period of time for the community to be without that type of protection.

Frontier Airlines, which is our major carrier here, has placed the installation of an ILS system as the top priority of needed improvements at the airport, and that position is supported by many organizations of corporate pilots who regularly fly here.

This winter so far has been very wet and consequently, a lot of storms and instrument weather conditions. For the first 24 days of this month, we had 975 instrument operations at the airport. So we

desperately need that system and hope that your committee and the Department of Transportation will consider our needs.

NEED TO UPGRADE RUNWAYS AND RAMPS

The third area regarding the airport is for airport improvements. Over the past years, the city with help from the FAA has been able to keep our airport in excellent condition with relatively modest expenditure. But this situation changed dramatically in June of this year, when Frontier Airlines phased out the Convair 580's and introduced the Boeing 737 aircraft into this area. We are very grateful for this service, but those airplanes are twice as heavy—approximately 100,000 pounds—and they do require the strengthening of all our paved surfaces—runways, taxiways, and ramps—and in addition—and you are familiar with this, Senator, but some of your people in Washington may not be—our airport is on a mesa. The ends of the runways go right to the edge of that mesa.

Chairman DOMENICI. I know that. [Laughter.]

Mr. BYROM. They call us "the aircraft carrier Farmington."

Chairman DOMENICI. You and Los Alamos. You are in competition for which has the biggest fall. [Laughter.]

Mr. BYROM. Right. It is handy for airplanes of low power because you do not have to climb much to get airborne when you get off the end of the runway.

But there are some things that can be done to improve the safety areas on the ends of the runways, so we hope to do that.

Included in our prepared statement ¹ is a 5-year capital improvements program for the airport which includes this work. It is ambitious, but we expect to spend somewhere in the realm of \$4.3 million in the next 5 years for these improvements. Naturally, that would require a higher degree of funding than our normal enplanement allocation. We are hopeful that the FAA can find some discretionary money. We have been given a favorable impression from the agency that they will find some. We are also hopeful that we would be eligible for some of the jobs bill money to help. But the improvements at the airport are very important.

URBAN STREETS AND HIGHWAYS

And then, our urban streets and highway systems. The city adopted a major thoroughfare plan in 1977, and since that time, has embarked on a very ambitious construction program, building new urban streets and resurfacing the existing pavement. To come up with the money necessary, in 1979, we increased our local sales tax by one-quarter of 1 percent and dedicated that revenue to roadway construction and maintenance. We started out with that fund bringing in just under \$1 million, and I think today it is getting close to \$1.5 million per year that is going exclusively into local streets and highways. In addition to that, moneys come, naturally, as a refund from the State for the gas tax money allocation. The city also uses some general fund money. We also have paved a lot of streets, general street improvement districts, whereby the abutting property owners are assessed.

¹ See p. 47.

But we are still playing catchup with arterial streets in the city, and we have requested State and Federal aid from any agency that will listen to us. We are very thankful for the help that we have received from the State highway department, especially recently with the municipal arterial program.

Our most pressing needs today would be the construction of two major arterials that would bypass a significant amount of traffic from the central urban area. Both of these projects involve a river crossing and the construction of major roadways through relatively undeveloped areas.

I want to mention also that a significant part of this construction is outside the city limits. The city has a history of building things that are not just within the corporate limits. That goes back many, many years when they first built the Murray Freeway, and most of that was outside the city limits, but it served the people in the area.

Just recently, we completed the construction of an east-west arterial, which is 30th Street, and a portion of that is outside the city, but it serves everyone in the area. One of these roads would be a bypass between 550 and 64 on the east side of the city. It would provide a shortcut for better than 8,000 vehicles a day, which now drive in and out of the city center, adding congestion to our river crossing, which is now carrying about 30,000 cars per day.

The other bypass, which I am happy to report, has been talked about for over 20 years, but I have just recently heard that a bill is in the legislature that would provide engineering and right-of-way allocation to get started on that project, and that would be a truck bypass that would eliminate the necessity of the heavy trucking coming right into the center city.

Thank you, Senator Jack Morgan, for helping us on that legislation.

That concludes my formal presentation. If there are any questions, I would be glad to answer them.

Chairman DOMENICI. Thank you, Mr. Byrom.

You might, before we leave today, if you have not, get with Linda and bring her current on what present applications for airport improvements you have pending so we will have a better picture of it. We cannot make any commitments today, but obviously, anything that was said about priority of allocation from the National Government that is very old is somewhat irrelevant, because that whole program has, because of the increased user fees attached to the airlines, significantly more money, and it is directed at some of the long-term FAA needs, so it is not all going to be local. But basically, we would like to take a look at that and the priorities in terms of the new funds that are available for airport improvements. So, if you will do that, we will be glad to take a look and let you know where things stand.

Mr. BYROM. Thank you.

-UTAH
-ARIZCOLO
N M

CITY OF FARMINGTON, NEW MEXICO

PUBLIC WORKS DEPARTMENT

505 / 327-7701

March 25, 1983

The Honorable Pete V. Domenici, Chairman
Senate Budget Committee

Dear Senator Domenici,

Farmington is the "work center" for the Four Corners Area. Many major energy companies have offices and production personnel based here. To a great extent, Farmington provides the Infrastructure for the region. We provide most of the potable water in the San Juan Valley, most of the Domestic electric service in the County, and the residential and commercial service center with its hundreds of miles of water lines, sanitary sewer lines, paved streets, and the Municipal Airport. Being the work center, our transportation needs are most important.

PART I - THE AIRPORT

Farmington is not served by a railroad; is not on the Interstate Highway System; and is many miles from our principle cities of interest. Driving time to Santa Fe or Albuquerque is about four hours and to Denver about nine hours, so our Airport is truly our PORT facility. Last year (1982) even with the slow down in the economy, we handled approximately 80,000 airlines passengers in and out of Farmington. Now to elaborate on three areas in which Federal Policies have an impact on Farmington's Airport.

A) AIR TRAFFIC CONTROL TOWER

Due to the Air Controllers strike in 1981, our tower was closed. Almost immediately we began efforts to get it reopened. When it became obvious that the F.A.A. could not respond, we leased the tower from the government and hired a private firm (at city expense) to provide controllers. After nine months and a city expenditure of \$72,000.00, Federal legislation was enacted whereby the City could be reimbursed by the F.A.A. to cover the cost of contract controllers.



P.O. BOX 900, 87499

We are now completing the first six months under this arrangement and are very pleased with the success of the program. Our tower operation was recently inspected by a D.O.T./F.A.A. team which reported that "Midwest Air Traffic Control is providing satisfactory Air Traffic Control services and has an excellent working relationship with users, airport personnel, as well as other F.A.A. facilities". We hope that this program will be continued as we feel we have an excellent tower operation and I'm sure there is a net saving to the Federal Government.

B) INSTRUMENT LANDING SYSTEM

Farmington has the air traffic and weather conditions to warrant the installation of an Instrument Landing System, however the D.O.T./F.A.A. has us programed for such a system sometime between 1990 and the year 2000. Frontier Airlines has placed an I.L.S. system as the top priority of needed improvements at our airport. This position is supported by the corporate pilots who regularly use our field. This winter has been an especially wet one with lots of storms. So far this month (March 1-24) we have had 975 Instrument Operations. We urge this committee to assist us in obtaining an I.L.S. for Farmington without delay.

C) AIRFIELD IMPROVEMENTS

We have, in the past, been able to keep the airport in good condition with modest expenditures of both local funds and Federal Aid. The situation changed for Farmington last June 1st, when Frontier Airlines, our major air carrier, removed the Convair 580's and introduced Boeing 737 jets. We are grateful to have the important service, however we have the immediate task to make our airport fully jet capable. Specifically, runways, taxiways and the terminal ramp must be strengthened to accomodate the larger and heavier aircraft. (a copy of our five year Capital Improvements Plan is attached.) This construction program is expected to cost about 4.3 million dollars which will be far above our normal Federal Aid enplanement funds. We are hopeful that some F.A.A. discretionary funds can be found and that the new "JOBS" program can contribute to our needs. The City expects to provide our matching funds from the sale of general sales tax revenue bonds.

PART II - URBAN STREETS & HIGHWAYS

The City adopted a Major Thoroughfare Plan in 1977 and since that time has embarked on an ambitious construction program to build new streets and highways and to resurface existing pavements. In 1979, we increased our local sales tax $\frac{1}{2}$ of 1% and dedicated that revenue (expected to be 1.5 million in 1983) to roadway construction and maintenance. Other funding generated locally comes from the City General Fund and Street Improvement Districts in which the abutting property owners share in the improvement costs.

Because we are still playing "catch-up" in Arterial Street Construction, we have requested State and Federal Aid from any agency that will listen to us. We are thankful for the help received from the State Highway Department and especially their Municipal Arterial Program.

Our most pressing needs today are the construction of two Major Arterials that would by-pass a significant amount of traffic from our central urban area. Both of these projects involve a river crossing and the construction of a major roadway thru relatively undeveloped area.

A) THE HIGHWAY 550-64 CONNECTOR

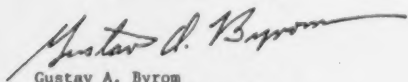
This arterial would provide a short cut for at least eight thousand vehicles per day. These motorists now must drive into the city center and out again adding to the congestion around our major river crossing which is handling over thirty thousand vehicles per day.

B) HIGHWAY 64 BY-PASS

This project has been proposed on and off for twenty years, but the size of it (estimated at five million dollars) has always caused it to be put on the back burner. Most of the heavy through trucking now must use Broadway thru our downtown Business Area which is both hazardous to the local traffic and wasteful to the truckers who must run the gauntlet of traffic signals and the milling around of shopping traffic. The By-Pass would provide a safer, quicker route for not only the heavy trucking but five to six thousand other motorists who did not want to go downtown.

Either or both of these major projects would greatly help Farmington trafficwise and would put a lot of people to work, not only in the actual construction but in the private development of the newly accessed lands which surely would follow. (A copy of our Streets Capital Improvement Plan is attached.) It is of course ambitious, but one way or another we expect to see it accomplished. We especially hope that some of the Federal Gas Tax money will find its way back to our urban system.

Respectfully Submitted

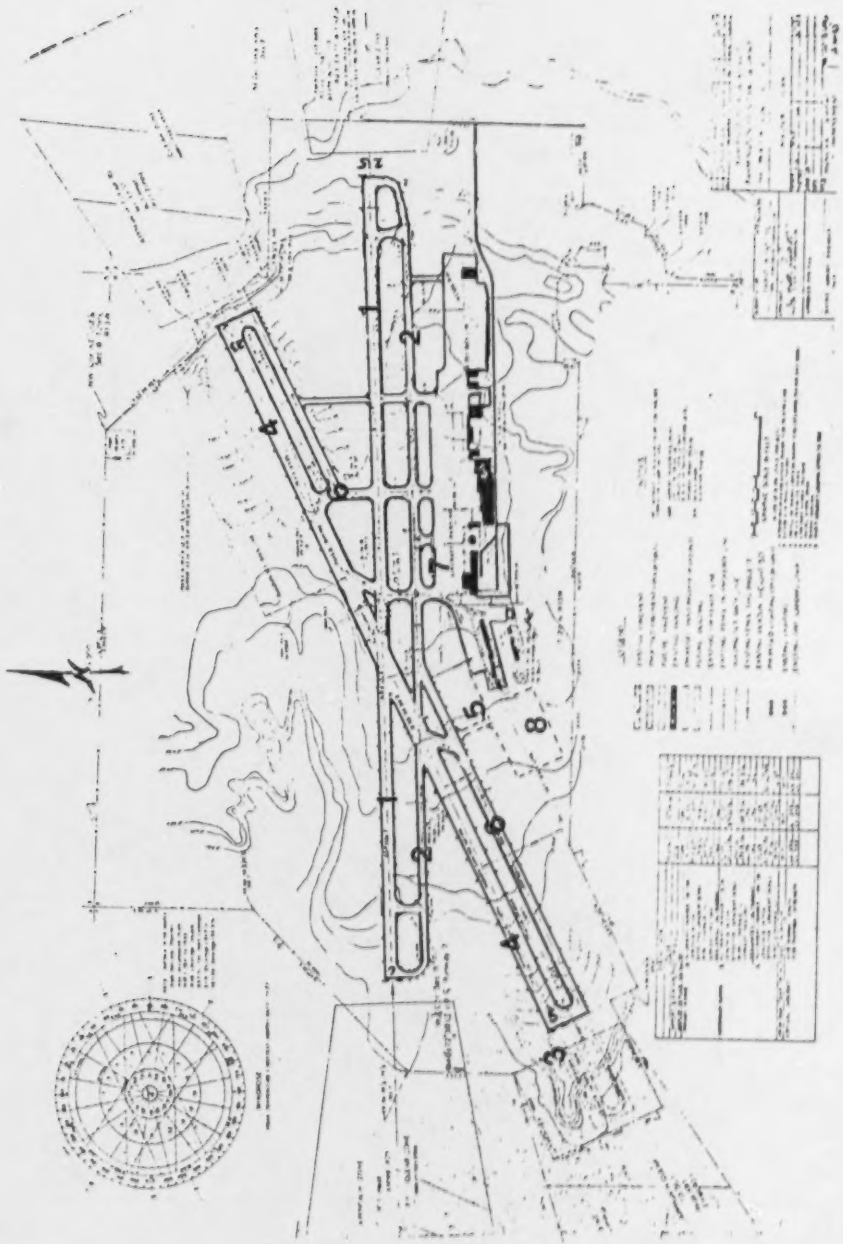
A handwritten signature in dark ink, reading "Gustav A. Byrom". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gustav A. Byrom
Transportation Director
City of Farmington

FARMINGTON, NEW MEXICO

SUMMARY
PUBLIC WORKS
AIRPORT
CAPITAL IMPROVEMENTS PLAN

<u>11</u>		MAP REF.
Runway 7/25 Strengthening	\$ 1,360,000	1
Runway 7/25 High Intensity Lights	93,000	1
Terminal Annex (remodel)	30,000	
	<u>\$ 1,483,000</u>	
<u>1985</u>		
Taxiway 7/25 Strengthening	\$ 432,000	2
Approach end Runway 5 - Safety Area Improvement	600,000	3
Terminal Parking Lot	100,000	
Terminal Annex (remodel)	30,000	
	<u>\$ 1,162,000</u>	
<u>1986</u>		
Runway 5/23 Strengthening	\$ 1,160,000	4
Runway 5/23 High Intensity Lights	90,000	4
General Aviation Taxiway	15,000	5
	<u>\$ 1,265,000</u>	
<u>1987</u>		
Taxiway 5/23 Strengthening	\$ 460,000	6
Terminal Ramp Strengthening	140,000	7
	<u>\$ 600,000</u>	
<u>1988</u>		
General Aviation Ramp	\$ 100,000	8
Aircraft Shade Covers	50,000	
	<u>\$ 150,000</u>	



SUMMARY
PUBLIC WORKS
STREETS
CAPITAL IMPROVEMENTS PLAN

		Page No.	Map Ref.
<u>1984</u>			
Twin Peaks Bypass - La Plata to West City Limits	\$ 130,000	3	
Troy King Road - North to Glade Hills	150,000	5	
Butler Avenue - 24th to 30th	230,000	7	
Municipal Drive - Apache to 3C Pump Station	440,000	9	
West Apache - Airport to Palmer	110,000	11	
Highway 550-64 Connector - Engineering	150,000	13	
Apache Street - Vine to Main	200,000	15	
Butler Street - Apache to Ute Intersections	120,000	17	
East Main - Curb and Gutters and Medians to English Road	46,000	19	
Glade Hills Blvd. - 30th Street to Glade - Earthwork	170,000	21	
City Participation in Paving District	400,000	23	
Street Resurfacing	750,000	25	
Curb, Gutter and Sidewalks	250,000	27	
Right of Way Acquisition	200,000	29	
	<u>\$ 3,346,000</u>		
<u>1985</u>			
Highway 550-64 Connector - Main to Southside River Road	\$ 2,000,000	13	
College Blvd. - Windsor to Glade Hills	115,000	31	
Glade Hills Blvd. - Main to College Blvd.	380,000	21	
Municipal Drive - 3C Pump Station to 20th	300,000	9	
City Participation in Paving District	200,000	23	
Street Resurfacing	750,000	25	
Curb, Gutter and Sidewalks	250,000	27	
Right of Way Acquisition	200,000	29	
	<u>\$ 4,195,000</u>		

		Page No.	Map Ref.
<u>1986</u>			
West 30th Street - La Plata Bridge	\$ 750,000	3	
Glade Hills Blvd. - College Blvd. to Butler	410,000	21	
North Butler Avenue - Northridge to Glade Hills	400,000	47	
Vine Avenue - Apache to Fairgrounds	335,000	35	
Butler Avenue - Ute to 20th Street Intersections	130,000	17	
East Main Street - English to Foothills Medians	116,000	19	
30th Street - Sunset to Municipal Drive	280,000	33	
City Participation in Paving District	200,000	23	
Street Resurfacing	750,000	25	
Curb, Gutter and Sidewalks	250,000	27	
Right of Way Acquisition	200,000	29	
	\$ 3,821,000		
<u>1987</u>			
Glade Hills Blvd. - Earthwork, Butler to 30th	\$ 930,000	21	
Highway 64 Bypass - Engineering, etc.	250,000	37	
Auburn Street - Comanche to 20th St.	150,000	39	
Miller Street - New Animas Bridge	1,000,000	41	
City Participation in Paving District	200,000	23	
Street Resurfacing	750,000	25	
Curb, Gutter and Sidewalks	250,000	27	
Right of Way Acquisition	200,000	29	
	\$ 3,730,000		
<u>1988</u>			
Highway 64 Bypass - Construction	\$ 5,000,000	37	
Auburn Avenue - Pinon to 64 Bypass	90,000	43	
Sullivan Avenue - Knudsen to Butler	280,000	45	
City Participation in Paving District	200,000	23	
Street Resurfacing	750,000	25	
Curb, Gutter and Sidewalks	250,000	27	
Right of Way Acquisition	200,000	29	
	\$ 6,770,000		

STREETS**LEGEND**1984

1. TWIN PEAKS BYPASS - LA PLATA TO WEST CITY LIMITS.
2. TROY KING RD. - NORTH TO GLADE HILLS.
3. BUTLER AVE. - 24TH TO 30TH.
4. MUNICIPAL DR. - APACHE TO 3C PUMP STATION.
5. WEST APACHE - AIRPORT TO PALMER.
6. HIGHWAY 550-64 CONNECTOR - ENGINEERING.
7. APACHE ST. - VINE TO MAIN.
8. BUTLER ST. - APACHE TO UTE INTERSECTIONS.
9. E MAIN - CURB & GUTTERS TO ENGLISH RD.
10. GLADE HILLS BLVD. - 30TH ST. TO GLADE - EARTHWORK.
CITY PARTICIPATION IN PAVING DISTRICT.
STREET RESURFACING.
CURB, GUTTER AND SIDEWALKS.
RIGHT OF WAY ACQUISITION.

1985

11. HIGHWAY 550-64 CONNECTOR - MAIN TO SOUTH SIDE RIVER RD.
12. COLLEGE BLVD. - WINDSOR TO GLADE HILLS.
13. GLADE HILLS BLVD. - MAIN TO COLLEGE BLVD.
14. MUNICIPAL DR. - 3C PUMP STATION TO 20TH ST.
CITY PARTICIPATION IN PAVING DISTRICT.
STREET RESURFACING.
CURB, GUTTER AND SIDEWALKS.
RIGHT OF WAY ACQUISITION.

1986

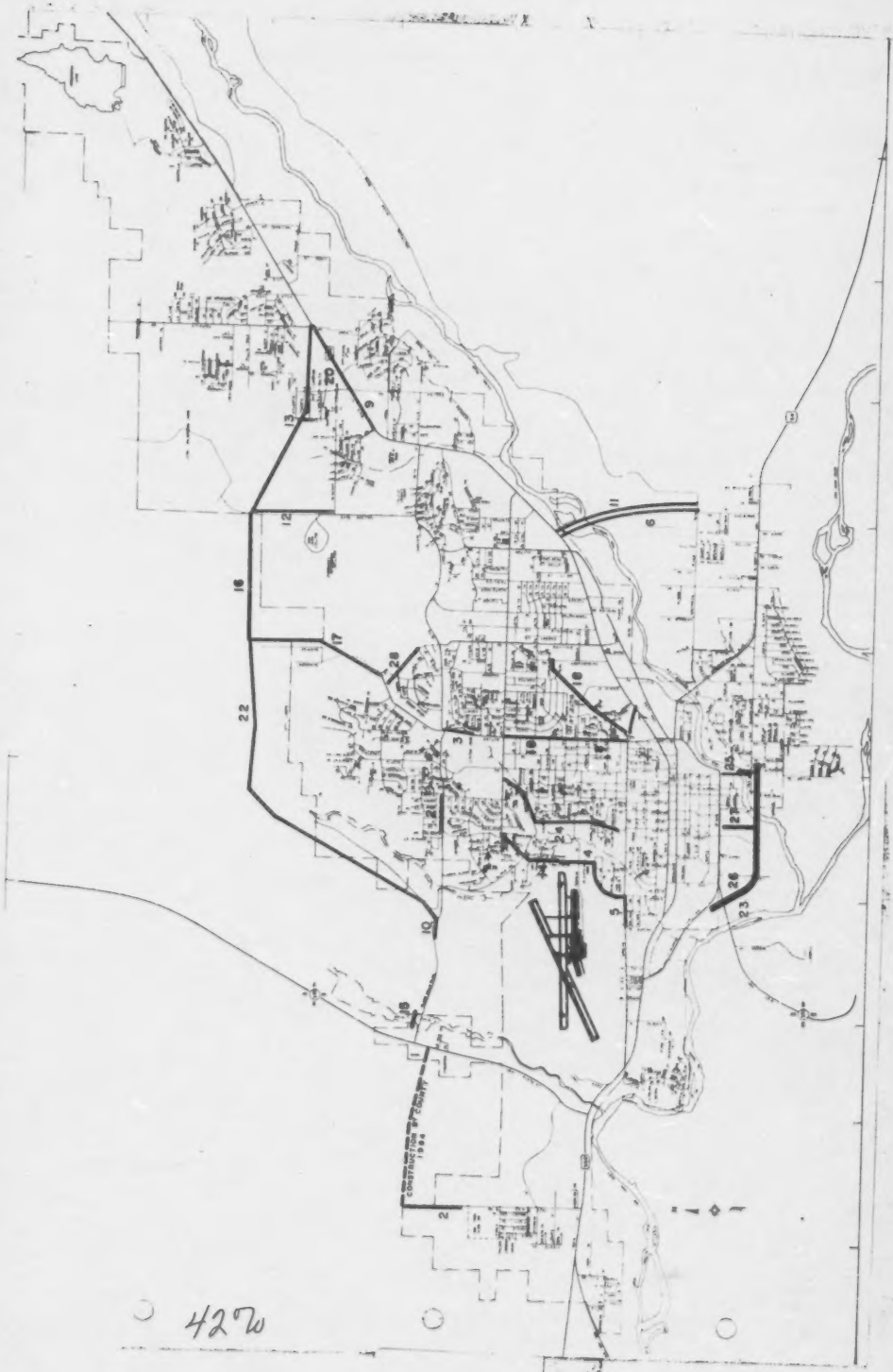
15. W. 30TH ST. - LA PLATA BRIDGE.
16. GLADE HILLS BLVD. - COLLEGE BLVD. TO BUTLER.
17. N BUTLER AVE. - NORTHRIDGE TO GLADE HILLS.
18. VINE AVE. - APACHE TO FAIRGROUNDS.
19. BUTLER AVE. - UTE TO 20TH ST. INTERSECTIONS.
20. E MAIN ST. - ENGLISH TO FOOTHILLS - MEDIANS.
21. 30TH ST. - SUNSET TO MUNICIPAL DR.
CITY PARTICIPATION IN PAVING DISTRICT.
STREET RESURFACING.
CURB, GUTTER AND SIDEWALKS.
RIGHT OF WAY ACQUISITION.

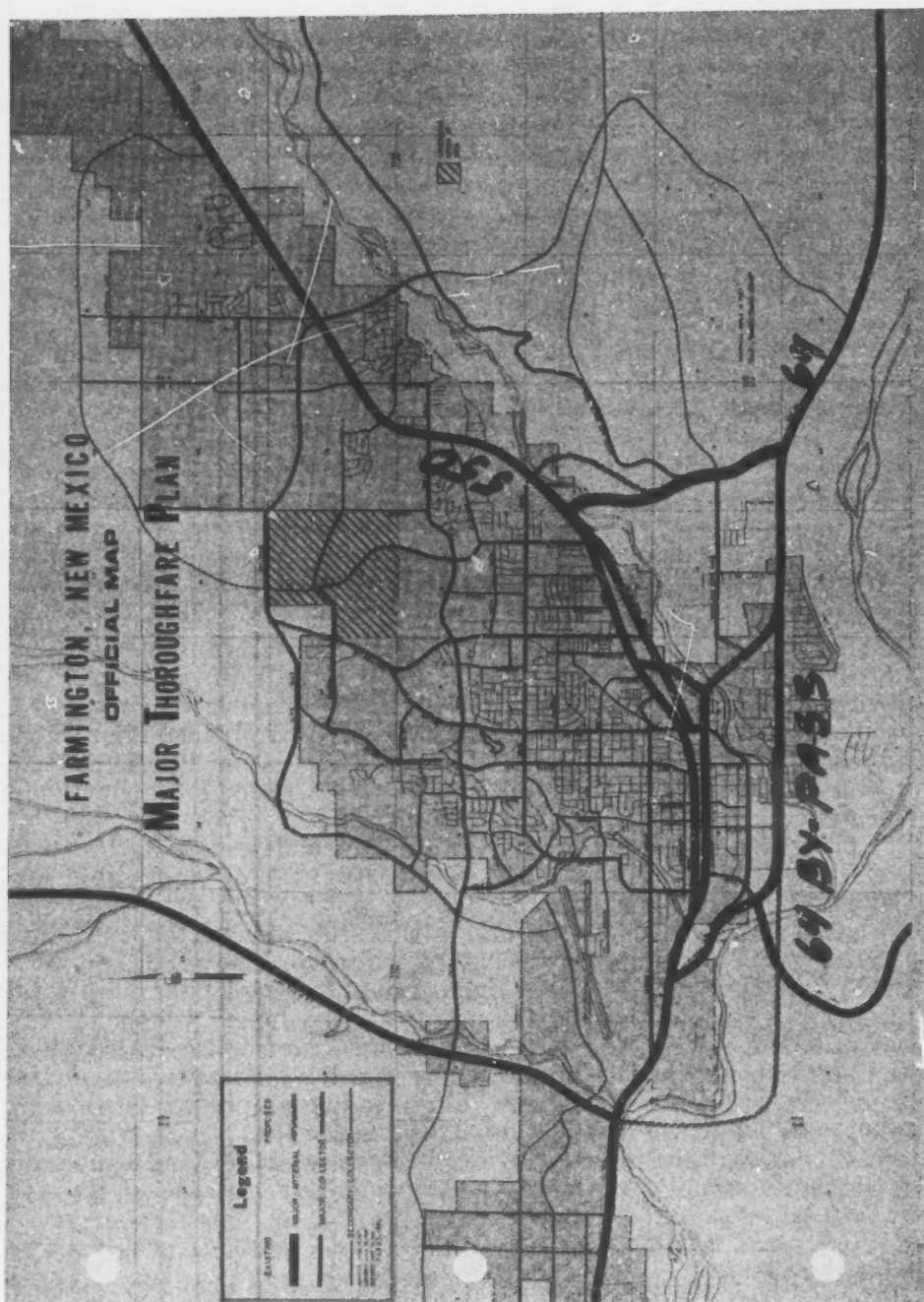
STREETS**LEGEND, CONT.**1987

22. GLADE HILLS BLVD. - EARTHWORK, DRAIN TO DRAIN.
23. HIGHWAY 64 BYPASS - ENGINEERING, ETC.
24. AUBURN ST. - COLLEGE TO 20TH ST.
25. MILLER ST. - NEW JIMMIES BRIDGE.
CITY PARTICIPATION IN PAVING DISTRICT.
STREET RESURFACING.
CURB, GUTTER AND SIDEWALKS.
RIGHT OF WAY ACQUISITION.

1988

26. HIGHWAY 64 BYPASS - CONSTRUCTION.
27. AUBURN AVE. - PINON TO 64 BYPASS.
28. SULLIVAN AVE. - KNUDSEN TO BUTLER.
CITY PARTICIPATION IN PAVING DISTRICT.
STREET RESURFACING.
CURB, GUTTER AND SIDEWALKS.
RIGHT OF WAY ACQUISITION.





Chairman DOMENICI. Let us move on now to Hank Pohlmann, an energy user, and then Mr. John Davis of the Atchison-Topeka and Santa Fe. I certainly do not want to have this part of the testimony given short shrift, even if we are behind. We want to address the railroad issue at least through these two witnesses. So I would appreciate it if you would make your testimony as brief as possible, but it is one of the things I want to hear, so proceed, to make sure we get your basic points.

Mr. Pohlmann.

Mr. POHLMANN. Thank you, Senator.

**STATEMENT OF HENRY F. POHLMANN, POHLMANN AND
ASSOCIATES, FARMINGTON, N. MEX.**

Mr. POHLMANN. I will not read my statement, but I will hand it in. I have extra statements, if there are other people interested in them. I will try to hit the highlights.

FOUR CORNERS NEEDS RAILROAD

The Four Corners area is in drastic need, and has been in drastic need, of a railroad for a long time. It is the most important thing that we have to look forward to in this area. But we have a difficult time getting a railroad.

On the map on the wall¹—which is basically the second map that I have in that handout that I gave you—it illustrates three railroads. The one on the right is Star Lake Railroad. They are having a difficult time. The first 32 miles would give Santa Fe's production, but the conflict between Santa Fe and the Indians continues. I do not know when it will end. I hope soon, for their sake.

I have grave doubts that the 80 miles from Prewitt to what I call the strip coal up there will ever happen. I have even less hope for the piece from where the Star Lake Railroad intersects the coal over the Bisti, and almost no hope for the Bisti to Farmington leg. I just do not think it is going to happen, not in this century.

The other railroad on the left is the one we have been talking about a number of times, the Navajo railroad. I have some doubts about this, too. I might use a little thought here, I hope with good taste. I was raised by my grandmother. In my house, we spoke only German. But a long time ago, she told me, "Henry, never play in a ball game or any kind of game where you have no control over the laws." So I think a lot of my fellow industrial types think that same way about the reservation. There is nothing wrong with it. It is just that we have no control over the reservation, and we would anticipate unusual taxes possible any time. But I am all for it.

RAILROAD WOULD SAVE HIGHWAY FUNDS

The other railroad that has never been talked about except the State talked about it, is No. 371. It is that center road on the map. I believe that is possible. One thing comes to mind with these hearings, on listening to the highway people. And I have asked Governor Anaya this question, and I think you can furnish answers. If there were a railroad 371 from Gallup to Farmington, how much

¹ See p. 61.

highway expense would be saved? That is a difficult question to answer, I know. But take off the heavy traffic, and what is the result?

Mr. LARRANAGA. Mr. Pohlmann, the question is unexpected, of course, but I can tell you in the area where commercial vehicles travel and where there is a great need in the area, like the northwestern part of the State, that we know that this would be a considerable savings in the roads itself. It would also open this area for probably more commercial and energy exploration in those areas, and I know that that is going to occur. So we are only seeing the tip of the iceberg at this point with the commercial vehicles coming up here. So our savings to the road would be considerable, although I would not put a figure on it at this point.

Mr. POHLMANN. Thank you. And he and I have never met until this minute, I think—is that right?

Mr. LARRANAGA. Yes.

Mr. POHLMANN. So we are not in cahoots. (Laughter.)

So thank you for your answer; it was beautiful.

COMMITTEE NEEDED TO MAKE RAILROAD A REALITY

I would anticipate that this railroad—we have no money. We are starting with no money. You cannot pull it out of the air. So the first thing we can form is a committee. I would propose that the committee be made up of at least two members of the Navajo Nation, the San Juan County Commission, the city of Farmington, the State of New Mexico, a person from Senator Pete Domenici's staff, one member from each energy company that might be involved, the Farmington Chamber of Commerce, the Aztec and Bloomfield Chambers of Commerce, and last but not least, a stock brokerage firm.

Somewhere along the line, I would anticipate this thing would be a public company, and we need that kind of advice. The various chambers of commerce could review their own traffic loads and come up with some idea as to what this amounts to.

This is just a suggestion.

How do we get it started? I guess I have a shopping list, too, a wish list, and the only thing on it is the hope that Senator Domenici can get the Army Corps of Engineers to make a preliminary survey of the 371 railroad route, tell us is it feasible, and then go from there.

That pretty much covers what I had to say, and as I say, the details are spelled out in what I handed in.

Thank you.

ROLE OF FEDERAL GOVERNMENT IN PROJECT

Chairman DOMENICI. Mr. Pohlmann, let me ask, in your prepared remarks, if I read it correctly, the only thing you are asking of the Federal Government is that the corps do a feasibility, not that the feasibility be directed at the Federal Government's involvement beyond that, but merely that they take a look as to whether it could be done and estimate its cost and the like, but it would not contemplate the Federal Government paying for it. Is that correct?

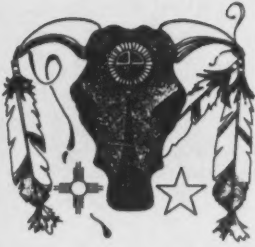
Mr. POHLMANN. Yes, sir, you are right, Senator. The only thing they would furnish at this time or at any time, probably, is the survey and the feasibility study.

One other point that I skipped over, but very important, is that I would hope that this railroad, which obviously serves the Navajo Nation and the United States would be—how do I word it—that cooperation from the tribe would, result and not obstruction. This is the important item in this thing. I think it is time we stopped battling one another and stopped all this baloney, and I think this is an excellent opportunity for the Navajo Tribe to cooperate.

Chairman DOMENICI. Now, my last question has to do with the Corps of Engineers. Under national law, they clearly can do this kind of thing. We could authorize it and appropriate funds to do it. I guess I just want to ask this. The reason they are selected is because of their expertise and that they do this kind of thing as a matter of course, either here or in foreign countries. It is not because they have any other reason for being in the project; is that correct?

Mr. POHLMANN. That is correct. I have talked to a colonel from that organization, and he tells me they are not railroad specialists, but they do have expertise of the kind we are looking for.

Chairman DOMENICI. Thank you very much. Your testimony will be made a part of the record.



Pohlmann and Associates

FARMINGTON, NEW MEXICO

200 PETROLEUM PLAZA BLDG.
FARMINGTON, NEW MEXICO 87401
PHONE (505) 325-4608

HENRY F. (HANK) POHLMANN
M.L. (MOE) SEELINGER

March 28, 1983

TO: Senate Budget Committee
New Mexico Infrastructure Hearing
Farmington, New Mexico 87401

SUBJECT: Transportation Infrastructure Panel Comments
by Hank Pohlmann

INTRODUCTION: Senator Pete Domenici requested participation in the subject meeting via letter dated 3/14/83.

The creation of a railroad from Gallup to Farmington and later into Colorado is the most important need in the Four Corners Area.

This testimony will be dedicated to that proposed railroad project.

DISCUSSION: Two maps are included. Exhibit "A" defines the three possible railroads. Our interest is in the proposed 371 Railroad.

Exhibit "B" illustrates coal ownership, proposed railroads and relationship between the United States and the Navajo Nation.

The Star Lake-Bisti Railroad has been discussed for many years. The main purpose of this rail would be to service Santa Fe Railroad's mining interests in the Prewitt to Pueblo Pintado interval. Conflicts between Navajo Indians and the Santa Fe Railroad continue to delay the project to this date.

Most local experienced professionals doubt this rail would ever be extended from Pueblo Pintado to Bisti and on into Farmington during this century. The first 32 miles will probably be laid during the next year or two if the Navajo conflict is ever settled.

The proposed Navajo Railroad, left side of maps, has also been discussed for a number of years. This would be a great vehicle for the Consol and Utah International mines located in the Navajo Nation. There is much concern about the possible problems of shipping non-Navajo Nation products on this rail.

In our opinion, the 371 Railroad could best serve the United States and the Navajo Nation. Lateral east and west rail extensions from Bisti would complete the project and allow for equal treatment of all concerned. A very competitive arrangement would have been created. The lowest possible price for coal and electricity would result.

How can this feat be accomplished? Since we are starting with zero dollars, the only step that can be taken is to form a committee of non-paid participants. I suggest the following list as a minimum:

Source	No. of Participants
Navajo Nation	2
San Juan County Commission	2
City of Farmington	2
State of New Mexico	2
Senator Pete Domenici's Staff	1
Energy Industry	1 (per interested company)
Farmington Chamber of Commerce	2
Stock Brokerage Firm	1

First order of business would be a precise survey of the proposed route. Any physical problems? Since we have no money, could the U. S. Army Corps. of Engineers furnish this service? I have predetermined these people have the ability to complete such a task and valuation. This group is also capable of building the railroad.

I have also already asked Governor Anaya if the State of New Mexico would furnish some answers. The main question is how much highway expense would a 371 Railroad save? Perhaps the State would also be kind enough to help in other ways where people and not money are involved? The B.L.M. promised to convert P.R.L.A.'s to leases in 1983. This long over-due action must take place before a railroad can happen. Will the B.L.M. cooperate or will this group continue to procrastinate?

Another variable must also be determined early in the venture. Is the Navajo Nation going to cooperate or obstruct?

If everything is "go" to this point, the matter of securing private financing, the major obstacle, must be faced. Will S. 532 be of any help?

Will the Navajo Nation, the City of Farmington, San Juan County and State of New Mexico furnish any monetary assistance? In the State's case, the contribution might be the highway dollars saved because the railroad removed the damaging heavy loads from our highways.

The vast majority of the needed funds should come from private industry. Are these firms ready and willing to invest in a privately owned 371 Railroad Company? If seed money is obtained, a fulltime paid manager and secretary would probably be hired. I know where and how to beg for free office space, phones and furniture.

CONCLUSIONS:

The creation of the 371 Railroad is possible if cooperation between the United States, the Navajo Nation, the State of New Mexico, San Juan County, the City of Farmington and private industry becomes a reality.

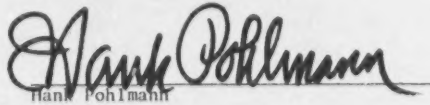
Preliminary help from the U. S. Army Corps. of Engineers is an absolute necessity.

A dedicated group of people with diverse backgrounds, but with a common interest, must be willing to contribute maximum effort and time. No monetary compensation is possible.

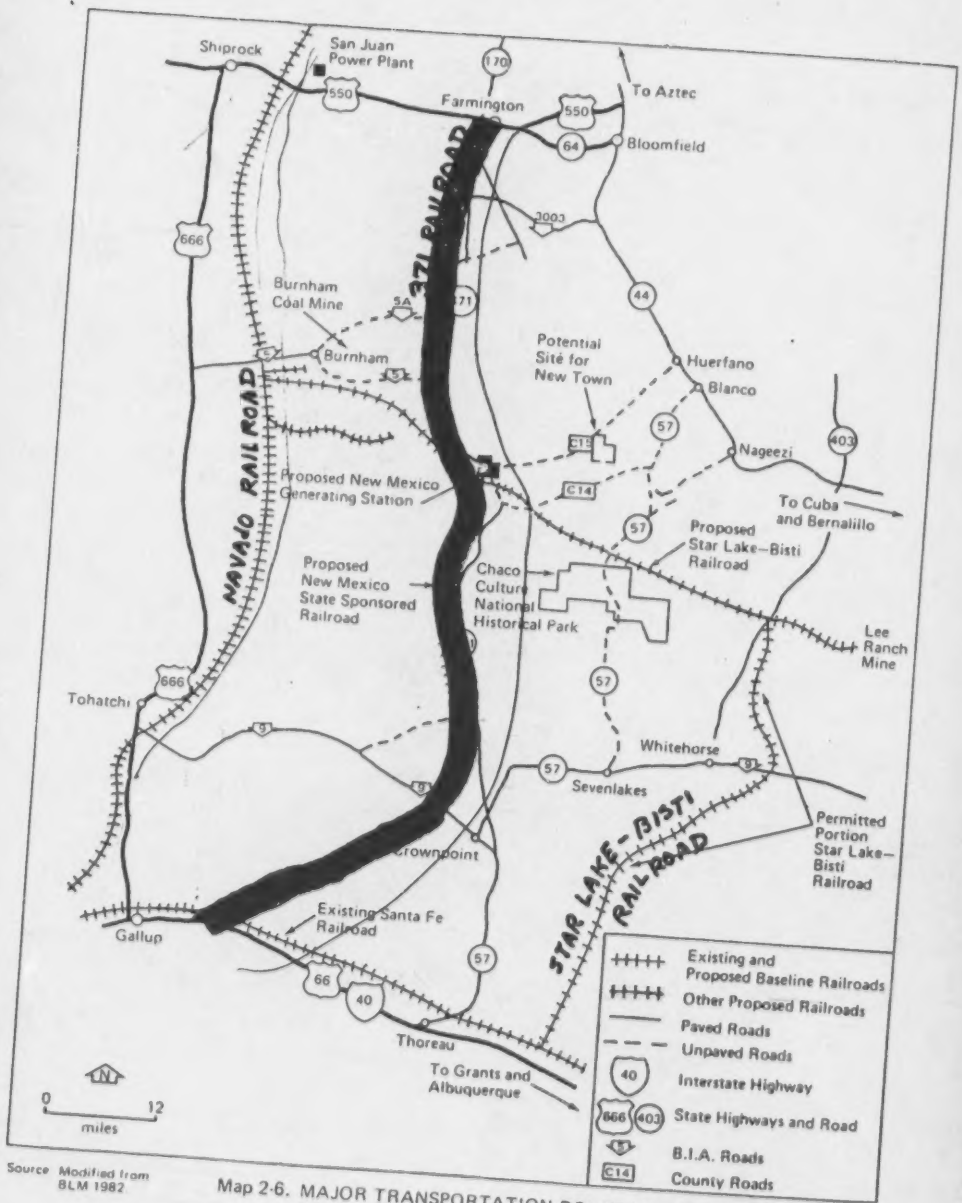
RECOMMENDATION:

Request Senator Pete Domenici to investigate the possibility of securing Corps. of Engineers assistance for preliminary work, plus actual construction of the 371 Railroad.

Immediately form the 371 Railroad Committee if Corps. of Engineers help is available for the preliminary survey and valuation work.


Hank Pohlmann

HP/oh
Attachments



Source Modified from
BLM 1982

Map 2-6. MAJOR TRANSPORTATION ROUTES IN THE SAN JUAN BASIN

EXHIBIT "A"

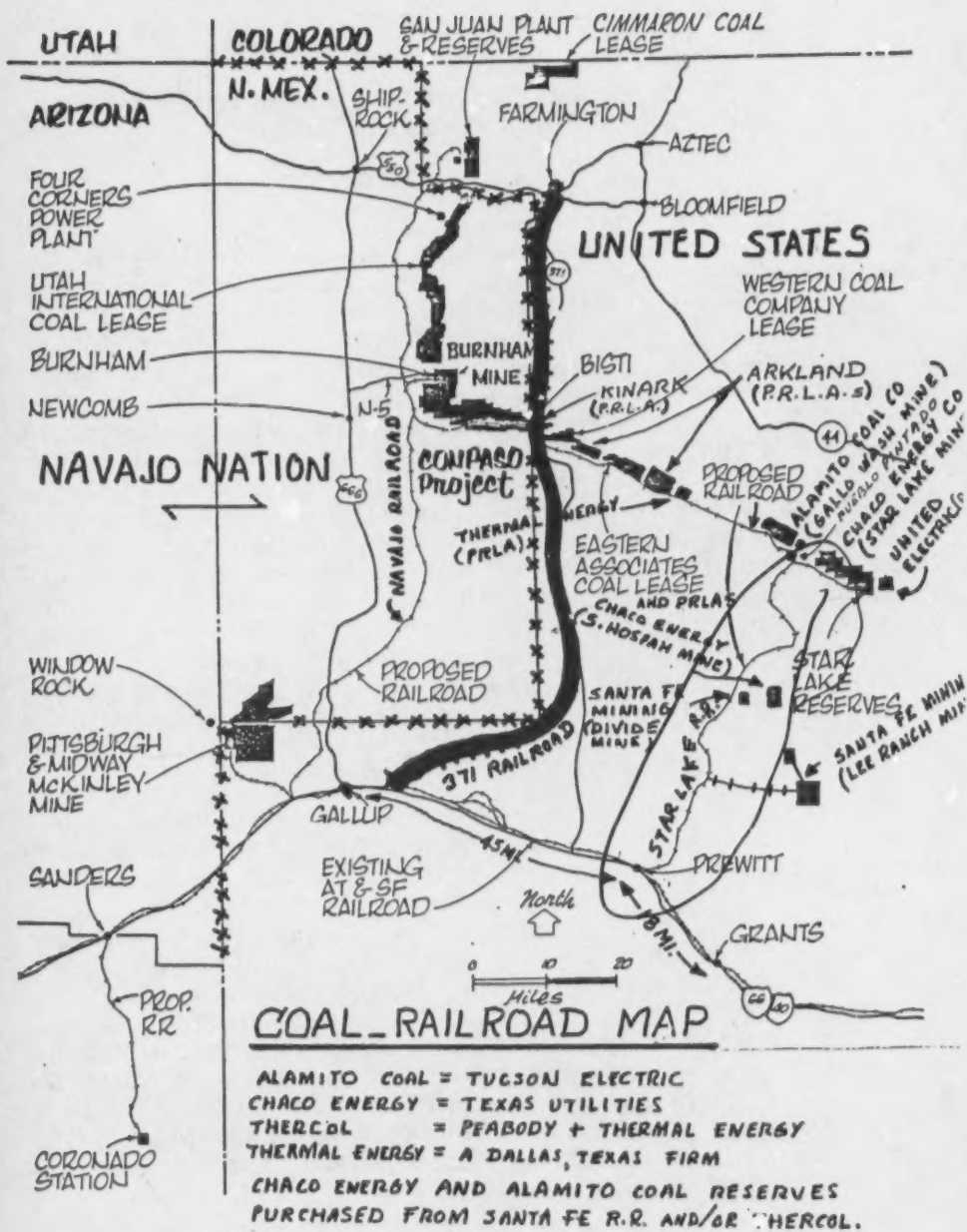


EXHIBIT "B"

REVISED 1-4-82

Chairman DOMENICI. Mr. John Davis, we are delighted to have you here, and we are interested in hearing what you have to say about the railroad situation in the Four Corners area.

**STATEMENT OF JOHN DAVIS, RETIRED VICE PRESIDENT,
ATCHISON, TOPEKA & SANTA FE RAILWAY**

STAR LAKE RAILROAD PROJECT

Mr. DAVIS. I am glad to be back in Farmington for the third time, I believe, to talk about the Star Lake Railroad. I retired last December as senior vice president of the executive department of the Santa Fe Railway and have been retained to testify on this railroad in view of my past involvement with a project which—you may recall, Senator, I think we first met in July of 1976 when a group of us met with you and the other members of the New Mexico delegation to review the Star Lake project. I next appeared before one of your committees or subcommittees here in Farmington in August of 1979, just 3 days after Secretary of Interior Andrus had approved issuance of the right-of-way for Star Lake Railroad across public lands under his jurisdiction. This approval carried a stipulation that construction was not to commence until approval was received from the Navajo Tribal Council as to lands subject to its jurisdiction. It was not until the following January that we were able to commence meaningful discussions with a negotiating team comprised of three members each of the two Navajo Tribal Chapters which would be initially affected by the railroad.

AGREEMENT WITH NAVAJO'S REACHED

These meetings progressed over some 11 months, including one presentation before the Navajo Tribal Council. I participated personally in all these meetings and ultimately signed the final agreement on behalf of Santa Fe Railway. In that agreement, we agreed to most of the conditions asked for by the chapter energy negotiating teams, and we have lived up to our end of the bargain to the extent that we can before actual construction can commence.

For example, we enlarged our colleague scholarship program, which has been in existence for some 25 years, under which we award four 4-year scholarships annually to young Native American graduating high school seniors, regardless of their tribal affiliation. This program was expanded to include two additional students who must be members of the Navajo Tribe. Already four of these students are enrolled in college.

COURT STEPS IN ON AGREEMENT

Most recently, I appeared before Senator Morgan and a joint committee on March 1, at which time, I introduced some testimony, and in that, I referred to a decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit which remanded the Star Lake Railroad decision under which we were granted a certificate of public convenience and necessity back to the Interstate Commerce Commission to consider two points. The two points that the Commission was directed to consider were, first, the financial viability of the line, and second, the allegations that misrepresenta-

tions had been made by Santa Fe and Star Lake right-of-way representatives in its negotiations with individual Indian allottees. The Interstate Commerce Commission had taken the position that consideration of these matters were properly that of another agency. The court has disagreed, and the matter is going back to the Interstate Commerce Commission. I am not quite as pessimistic as my friend, Mr. Pohlmann, on the outlook for the railroad being constructed. I think there is an excellent chance that the railroad will be constructed as far as the Navajo Reservation boundary and possibly beyond at some future date.

In October 1980, I told the Farmington Chamber of Commerce quite frankly that I did not hold out near-term optimism for extension of the line into Farmington. I did point out that a piggyback terminal could be built at the end of the track a short distance south of here, which would really be no further than many of our piggyback loads come now to be loaded on flatcars for ultimate transportation to their destinations.

Chairman DOMENICI. How far is that?

Mr. DAVIS. About 30 miles, if I remember right.

Chairman DOMENICI. What impedes the final piece?

Mr. DAVIS. From Farmington? We have no application on file with the ICC from the end of track up to Farmington. We did categorize that as a tier 2 project in 1976 when the original environmental impact study was initiated. I have copies of my testimony before the Joint Committee of the New Mexico State Senate. I have a copy of the court decision. I have a copy of the letter addressed to the members of the Committee on Energy and Natural Resources of the New Mexico House of Representatives, submitted by Ms. Claudeen Bates Arthur, attorney general of the Navajo Nation DOJ, and I have a copy of the agreement between the Navajo Nation and Santa Fe and Star Lake Railways, to submit.

Chairman DOMENICI. We will make them a part of the record.

STATEMENT OF JOHN C. DAVIS BEFORE
NEW MEXICO SENATE CONSERVATION AND
CORPORATIONS COMMITTEES, MARCH 1, 1983

My name is John C. Davis. I retired in December from the position of Senior Vice President, Executive Department of the Atchison, Topeka and Santa Fe Railway Company. Because of my experience with the Star Lake Railroad project and since I have appeared before New Mexico legislative committees several times in connection with Legislative Proposals such as Senate Bills 89 and 90, I have been retained to testify for the Santa Fe Railway on these bills.

The Star Lake Railroad project, and the significant time and expense which has been necessary in connection therewith, is covered in detail in my September 24, 1982 statement to the Energy Resource Transportation Interim Committee chaired by Senator Morgan. I have attached to this statement an appendix reflecting the history of the project including recent developments. I will not lengthen the hearing by reading it in full but I believe a quick summary is appropriate, especially in view of advice I received while the Senate was in recess. I regret that I must advise the Joint Committee that the Court of Appeals of the District of Columbia has today rendered an adverse decision on our Certificate of Public Convenience and Necessity for the construction of the Star Lake Railroad and has sent the matter back to the Interstate Commerce Commission for further consideration. We have not had an opportunity to fully analyze the decision nor can we presently speculate as to when the matter may be finally resolved.

However, with the Joint Committee's indulgence, I shall proceed with a brief summary of the steps we have taken over the past nine years to reach our objective.

During the course of the development of this proposed legislation, statements have been made publicly and privately suggesting that the Santa Fe has been dilatory and even selfishly unwilling to carry out the complete Star Lake project. A representative of the Association of Commerce and Industry was quoted as saying last year that these bills are important to hold Santa Fe's "feet to the fire."

It seems that a full awareness of the steps we have taken, as I have just indicated, demonstrate our good faith efforts to develop this entire project consistent with market availability. This will continue to be our goal. Please be assured that it has not been lack of commitment or lack of funding which has caused delay in the Star Lake project. Rather, it has been the series of legal impediments which have been encountered.

The Certificate of Public Convenience and Necessity, which was today affected by the Court's ruling, covers the Star Lake Line from Santa Fe Main Line, not just to its connection with the spur to be built from Lee Fench, but all the way to Gallo Wash and Star Lake, a distance of 82 miles. (You should also be aware that still pending before the ICC is our application for authority to construct a line from Gallo Wash to the reservation boundary.) The exhaustive environmental impact requirements and the favorable

findings which resulted cover that same distance. Substantial expenses have been incurred not only to meet legal requirements, but for the various engineering and other studies which an undertaking of this magnitude requires.

I believe it should also be clearly stated that we are -- and have always been -- anxious to develop customers for the railroad anywhere along its route. As you know, initial construction involves a limited partnership but it should be emphasized that additional partners are not precluded and, in fact, we hope more participants will emerge. Moreover, involvement in the partnership is not a prerequisite and we are willing to consider any reasonable proposal having a sound economic basis. When the line is built it will operate as a common carrier and tariffs will be published for anyone wishing to ship on the line.

With respect to the Legislation now before this Committee, we have in the past expressed our willingness to cooperate with the Legislature and consider various proposals for the infusion of taxpayer's money into the railroad projects within the State of New Mexico. Obviously very large sums are involved. As I indicated in September \$40 million in private funds is provided for construction of the first segment of the Star Lake Line and we have invested another \$6 million in the project at this point.

As I also told the interim committee it is my firm belief that private sector financing arrangements are the best means of meeting the needs of coal shippers and receivers. However, in

view of today's adverse court decision which, for the present at least casts some doubt as to the timing and the outcome of any future common carrier railroad construction, it is inappropriate at this time for me to take a position regarding Senate Bills 89 and 90.

In conclusion I wish to again emphasize that it is and has been Santa Fe's intention to construct the Star Lake Railroad on a schedule consistent with the needs of shippers to move coal from -- or within -- the San Juan Basin. We have been, and continue to be, anxious to work with coal interests to be served by the Star Lake Railroad to develop a means of sharing in the risks involved through mutual participation in private financing. We are committed to the proposition that private rather than government financing is in the best interest of the companies involved and the economy as a whole.

Thank you.

JOHN C. DAVIS

APPENDIX TO STATEMENT
OF JOHN C. DAVIS
MARCH 1, 1983

In the summer of 1974, Santa Fe Railway first announced its plans to build a new line of railroad into the San Juan Basin to provide transportation access for coal to be mined in the Star Lake-Bisti area. It was originally planned that the first shipments of coal on the Star Lake line would commence late in 1979. However, in the course of carrying out the project over the past several years Star Lake Railroad has been confronted with requirements for documenting location, preparing environmental reports, planning mitigation measures, and submitting a myriad of permits for analysis by government agencies.

Applications for authority to construct Star Lake Railroad were filed with the Interstate Commerce Commission on September 3, 1976, and April 18, 1977, pursuant to provisions of the Interstate Commerce Act. The Interstate Commerce Act requires the Commission, upon receiving such an application, to determine whether the proposed construction is consistent with "the present or future public convenience and necessity" and authorizes the Commission to approve a construction application and issue a certificate to the applicant carrier if such a determination is made. Approximately four and one-half years intervened between Star Lake's application and the Commission's original decision and order served March 23, 1981, granting authority to construct Star Lake Railroad. During this period, two phases of regulatory proceedings

occurred and significantly set back Star Lake's original timetable.

First, consistent with the Commission's obligations under the National Environmental Policy Act, or NEPA, an environmental impact statement (EIS) was prepared as a joint effort of the United States Bureau of Land Management and the United States Bureau of Mines. Preparation of the EIS involved the participation of other federal agencies, including the Section of Energy and Environment of the ICC, as well as academic institutions, representatives of private industry, special interest groups, and members of the general public. Beginning in October of 1976, public meetings and hearings were conducted with broad participation by interested parties, including representatives of the State of New Mexico, the Navajo Nation, and the private sector. The draft EIS was published on September 29, 1978, and copies were sent, with a letter requesting comments, to over 60 federal, state, local and tribal entities, including the office of the Navajo Tribal Chairman and the Presidents of the Pueblo Pintado, Tzoreon and Nageezi Navajo Chapters, among others. As indicated in the final EIS, none of these Navajo representatives responded.

Subsequently, public hearings were held in November, 1978 at Farmington, Crown Point and Albuquerque. A subsequent draft of the EIS reflecting the various comments which were received was made available

for the public and submitted to the Environmental Protection Agency on March 1, 1979. That draft became final on April 12, 1979, 30 days after notice of its submission was published in the Federal Register. The final EIS consists of two volumes and a total of approximately 900 pages and exhaustively addresses and regional and site specific impacts of the proposed rail line on both the physical and human environment, including the proposed line's impact on aesthetic, cultural and historical resources and on the socio-economic environment.

The second aspect of the regulatory proceedings was development of the record before the Interstate Commerce Commission. Star Lake, having filed its first Return To Questionnaire under ICC procedures on February 15, 1977, filed an Amended Return to Questionnaire on December 28, 1979. Subsequently, on April 17, 1980, Star Lake filed its Opening Statements under the ICC's so-called "modified procedure." New Mexico Navajo Ranchers' Association, Pueblo Pintado Chapter and a Navajo named Martin Martinez, all represented by DNA-People's Legal Services, Inc., sought leave to intervene in the Commission proceeding in May of 1980. Another intervening party, the Continental Divide Trail Society, filed Statements in March and in May of 1980 objecting to Star Lake's application. Star Lake filed Reply Statements on June 6, 1980.

Simultaneously with developing the record in the regulatory proceedings before the Commission representatives of Star Lake were actively engaged in

negotiations with the Navajo Nation's Chapter Energy Negotiating Team (CENT). The CENT group was formed by Tribal Chairman Peter Mac Donald at the behest of Interior Secretary Andrus to conclude Star Lake right-of-way acquisition over tribal trust and tribal fee lands. On January 12, 1981, an Agreement was executed by Star Lake Railroad Company, The Atchison, Topeka and Santa Fe Railway Company and the Navajo Nation granting right-of-way and endorsing the entire Star Lake Railroad project. Thus, it should be emphasized that the Navajo Nation supports constructions of the line and the ensuing legal actions which have been filed were brought by several individual Navajo allotment holders represented by DNA-People's Legal Services, Inc., not acting on behalf of the Navajo Nation.

On March 23, 1981, the Commission, having considered the contentions of all parties to the proceedings and evidence submitted in support thereof, made the findings required by statute. The Commission found that construction of the proposed Star Lake line is essential to coal development in the affected region and that "the need to foster the development of additional energy resources is great." The Commission addressed the issues raised by the intervening parties as to whether the benefits of the proposed line were outweighed by any real or potential adverse effects upon the particular region and its population and whether Star Lake is fit, financially and otherwise, to proceed with the proposed construction.

With regard to the environmental impacts of the proposed rail line, the Commission's decision relied substantially upon the exhaustive EIS which had been prepared in compliance with NEPA, as described earlier. The Commission found that the EIS had adequately considered the various concerns expressed by the intervenors. The Commission also found that, although the EIS had concluded that the proposed line would have some unavoidable adverse impact upon the environment, such adverse impact would be relatively insignificant, particularly because Star Lake would be required to mitigate that impact as a condition of its construction authority. Moreover, the Commission noted that the EIS concluded there would be certain "positive impacts upon the region beyond the actual development of coal reserves" including, "increased employment opportunities and enhanced income." The Commission also found that such "economic benefits to the local Indian population would help to offset potential negative impacts" and that the proposed rail route was "clearly superior" to alternative proposed routes which the EIS rejected on grounds of more serious environmental consequences.

In consideration of all these factors, the Commission concluded that the benefits stemming from the proposed action outweigh negative consequences and therefore held that the environmental impact of the proposed line did not warrant denial of Star Lake's application.

The Commission also addressed, and rejected, a series of claims made by DNA-People's Legal Services, Inc., on behalf of its Navajo clients, as to Star Lake's financial "fitness." The Commission found although the proposed construction necessarily entailed some measure of financial risk, these facts did not render Star Lake "unfit." In support of its conclusion, the Commission noted that Star Lake's parent corporation, The Atchison, Topeka and Santa Fe Railway Company, would be operating the line and had agreed to assume financial risk in connection with such operation. The Commission also relied on evidence of record demonstrating that coal production along the line would probably increase over time, and that operation of the railroad would be sustained by the resulting coal traffic. In conclusion, the Commission granted Star Lake authority to construct the proposed line or, in other words, granted a Certificate of Public Convenience and Necessity.

Following issuance of the Commission's March 23, 1981, decision and order approving Star Lake's construction application, DNA-People's Legal Services filed a Petition for Review in the U. S. Court of Appeals for the District of Columbia Circuit and also filed an administrative Petition to Reopen and for Stay with the Interstate Commerce Commission. DNA supported this request for relief with essentially the same arguments it had advanced previously in opposition to Star Lake's application plus various technical

- 7 -

objections to the Commission's March 23, 1981, order. The Continental Divide Trail Society also filed a Petition for Reopening and for Stay with the Commission on the grounds that the Environmental Impact Statement, upon which the Commission relied in its decision, did not adequately consider potential environmental consequences on the proposed Continental Divide National Scenic Trail and did not adequately consider possible alternative routes for the proposed railroad line.

By order served July 8, 1981, the Commission denied the Petition to Reopen and for Stay filed by DNA-People's Legal Services finding that the arguments set forth in that petition had either been addressed in the Commission's March 23, 1981, decision or were otherwise without merit. The Commission concluded that DNA had failed to demonstrate material error, new evidence or substantially changed circumstances that would warrant reopening of its order. However, the Commission granted the Motion for Reopening filed by the Trail Society, finding "that the rail line could adversely affect an important National recreational resource." Accordingly, the Commission reopened the proceeding for supplementation of the record to permit it "to analyze adequately arguments raised by the Trail Society and the likely impact of the rail construction on the Trail and to consider any appropriate measures which could be taken to mitigate the adverse impacts of construction."

In conformity with the Commission's order granting the Trail Society's Petition to Reopen, the Commission's Section of Energy and Environment prepared a Supplement to the Environmental Impact Statement. The Supplemental Environmental Impact Statement was served on October 26, 1981, and addressed potential impacts on the proposed Continental Divide National Scenic Trail of the railroad construction and of two alternative routes advanced by the Trail Society. The Supplemental EIS also recommended measures that could be taken to mitigate potential adverse impacts of construction. Comments on the Supplemental EIS were filed by Star Lake and Santa Fe, the Trail Society, DNA-People's Legal Services and the Energy and Minerals Department of the State of New Mexico.

Following consideration of the Supplemental EIS and the comments that had been received, the Commission again issued a decision and order on February 3, 1982. In that decision, the Commission concluded the construction of the railroad line as originally proposed would not have a significant adverse impact on the proposed Continental Divide National Scenic Trail and that the alternatives proposed by the Trail Society were not "environmentally superior" to the proposed route. Accordingly, the Commission reissued the Certificate of Public Convenience and Necessity on the condition that Star Lake would consent, if necessary, to the trail crossing the railroad line and that it would take certain safety measures at any such crossings.

On February 8, 1982, DNA-People's Legal Services again filed with the Commission a Petition for Stay of the Certificate of Public Convenience and Necessity pending judicial review by the District of Columbia Circuit Court of Appeals. In its petition DNA reiterated the points which had been made in its original request to intervene in May of 1980 and in its April, 1981, petitions to the Court of Appeals and the Interstate Commerce Commission for

review. On March 19, 1982, almost a full year after the original Certificate of Public Convenience and Necessity was issued, the Commission issued yet another order, this time denying the DNA petition to stay the effectiveness of the Certificate of Public Convenience and Necessity which was issued to Star Lake on February 3, 1982, and reaffirming its reasons for denying the Navajos' petition and for granting Star Lake authority to construct.

In response to that denial, the DNA-People's Legal Services, on behalf of its Navajo clients, on March 31, 1982, filed a motion asking the D.C. Court of Appeals to stay the effectiveness of the Commission's Certificate of Public Convenience and Necessity pending a review of the Commission's entire decision. The Commission immediately opposed the Motion to Stay and Star Lake and Santa Fe moved to intervene on behalf of the Interstate Commerce Commission as defendants and also filed briefs in opposition to DNA's Motion for Stay. On June 1, 1982, the D.C. Court of Appeals denied DNA's Motion for a stay pending review of the ICC order by that court. A hearing on the appropriateness of the ICC's order was held on October 18, 1982, before the D.C. Court of Appeals. An adverse decision has been issued by that Court today. Our attorneys have not had the opportunity to fully analyze its content, but I am advised that the matter has been sent back to the Commission for further consideration. At this point in time, we are unable to speculate as to when the matter may be finally resolved.

Notice: This opinion is subject to formal revision before publication in the Federal Reporter or U.S.App.D.C. Reports. Users are requested to notify the Clerk of any formal errors in order that corrections may be made before the bound volumes go to press.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 81-1534

NEW MEXICO NAVAJO RANCHERS ASSOCIATION,
MARTIN MARTINEZ, and PUEBLO PINTADO CHAPTER,
PETITIONERS

v.

INTERSTATE COMMERCE COMMISSION and the
UNITED STATES OF AMERICA, RESPONDENTS

STAR LAKE RAILROAD COMPANY, ET AL., INTERVENORS

Petition for Review of an Order of the
Interstate Commerce Commission

Argued October 18, 1982

Decided March 1, 1983

Paul E. Frye, with whom *Eric D. Eberhard* was on the brief for petitioners, New Mexico Navajo Ranchers Association, et al. and intervenors Torreon Chapter, et al. *Dan Press* also entered an appearance for petitioners.

Bills of costs must be filed within 14 days after entry of judgment. The court looks with disfavor upon motions to file bills of costs out of time.

John J. McCarthy, Jr., Attorney, I.C.C., for respondents. *John Broadley*, General Counsel, *Henri F. Rush*, Associate General Counsel, *Cecelia E. Higgins*, Attorney, I.C.C., *John J. Powers, III* and *Kenneth P. Kolson*, Attorneys, Department of Justice, were on the brief for respondents. *Daniel B. Harrell*, *Richard A. Allen* and *Ellen K. Schall*, Attorneys, I.C.C. and *James H. Laskey*, Attorney, Department of Justice, also entered appearances for respondents.

R. Eden Martin, with whom *Lawrence A. Miller*, *Richard S. Flagg* and *Ronald S. Flagg* were on the brief for intervenors, Star Lake Railroad Company, et al. *Ann L. Shaw* also entered an appearance for intervenors.

Before: EDWARDS and BORK, Circuit Judges, LUMBARD *, Senior Circuit Judge.

Opinion per curiam.

PER CURIAM: Petitioners here challenge the Interstate Commerce Commission's grant to Star Lake Railroad Company ("Star Lake") and to The Atchison, Topeka and Santa Fe Railway Company ("Santa Fe") of authority to construct and operate a rail line in the coal-rich San Juan Basin of northwestern New Mexico, a region whose coal resources cannot currently be tapped because there is no way to move the coal to markets. Nearly all of petitioners' objections are meritless. This Court has concluded, however, that two aspects of the proceedings before the ICC were deficient and that the case should therefore be remanded.

Star Lake filed an application for construction and operation authority, under what is now 49 U.S.C. § 10901 (Supp. IV 1980), on September 3, 1976. During the following several years, the Department of the Interior, with help from the ICC and from other agencies, pre-

* Sitting by designation pursuant to Title 28 U.S.C. § 294(d).

pared a comprehensive environmental impact statement, which exhaustively analyzed the physical, social, and economic effects of the proposal and which concluded that the Star Lake rail line was a method of transporting coal that would be highly beneficial to the region and that was environmentally superior to alternative methods. In 1979 Star Lake submitted supplemental information, and on March 6, 1980, the ICC decided to consider the application under its modified procedure, 49 C.F.R. §§ 1100.43-1100.52 (1981), solely on written submissions and without a hearing.

Petitioners, who represent various Navajo Indian interests in the area where the rail line would be built, intervened shortly thereafter. Petitioners objected to the Star Lake proposal on numerous grounds: that Star Lake was not financially fit, that it had obtained consents to rights of way from Navajos by improper means, that there was no need for the rail line, that the record contained insufficient information on Star Lake's affiliations with prospective customers, that the environmental impact statement was deficient under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4332(2)(C) (1976), and that granting the construction and operation authority would violate various federal statutes, including the American Indian Religious Freedom Act ("AIRFA"), 42 U.S.C. § 1996 (Supp. IV 1980), the Indian Laws, 25 U.S.C. §§ 312, 313 (1976), the National Historic Preservation Act ("NHPA"), 16 U.S.C. § 470f (1976), and the National Trails System Act, 16 U.S.C. §§ 1241-1249 (1976). In addition to raising those objections, petitioners sought leave to conduct a broad range of discovery on Star Lake and on Star Lake's proposed rail line.

On October 23, 1980, the ICC denied the discovery request because it considered the evidentiary record adequate to make the statutory determination whether the public convenience and necessity required or permitted the

Star Lake rail line. On March 23, 1981, the ICC rejected petitioners' objections to the rail line, made findings favorable to Star Lake, and granted the certificate. Because Santa Fe would operate the line once Star Lake had constructed it, the ICC conditioned its approval on Santa Fe's joinder as an applicant, a condition that Santa Fe subsequently fulfilled. On July 8, 1981, the ICC reopened the record to reconsider alternative routes and possible measures to mitigate any adverse environmental effects of the rail line. The ICC prepared a supplemental environmental analysis, received comments from the several interested parties, including the State of New Mexico (which urged immediate construction of the line), and on February 3, 1982, reaffirmed its grant of construction and operation authority, adding certain mitigation requirements. This appeal followed.

Petitioners make here virtually all the arguments they raised before the ICC. We have reviewed these arguments and find almost all so lacking in merit as not to warrant discussion. Litigants should be reminded that they do not help their cause by filling their briefs with so many empty arguments that it becomes difficult to discover any valid claims amidst the clutter. In the welter of claims made by petitioners, we have found two that deserve attention.

I.

Petitioners contend that the ICC's conclusion that the rail line will be self-sustaining must be reversed. We agree with one of the arguments put forth to support this contention: the ICC erred in failing to require that Star Lake or Santa Fe comply with ICC regulations requiring the submission of estimates of the expenses and receipts expected for the rail line's operation.

The ICC may award a railroad a certificate of authority to construct and operate a rail line only if it is "convinced that the proposed venture [will] not drain the

railroad's resources and disable it from performing those duties of public service under which it then rested, with consequent detriment to the public in the matter of service and rates." *ICC v. Oregon-Washington R.R.*, 288 U.S. 14, 37 (1933) (footnote omitted). That is, the ICC must determine that the applicant is financially "fit." The ICC here undertook to meet this obligation by inquiring whether Star Lake's proposal "in the reasonably near future will be self-sustaining, or so nearly so as not unduly to burden interstate commerce." *Id.*; *Illinois Cent. R.R. v. Norfolk & W. Ry.*, 385 U.S. 57, 66-67 (1966).

In finding that the proposed rail line would be self-sustaining and hence that Star Lake and Santa Fe, the two companies granted certificates, were financially fit, the ICC failed to follow its own regulations. Those regulations require an applicant for construction or operation of rail lines to submit, among other things,

[a]n estimate, in detail, of the character and volume of traffic expected and the gross revenue to be derived therefrom, covering each of the first five years of operation, together with an estimate of the annual gross revenues expected after the first five years. The detailed estimate required for the first five years should show the amount of each class of traffic, the mean length of haul, the rate per unit, and the revenue to be derived, also chief points or territories of origin and destination.

49 C.F.R. § 1120.6 (1981) (Question 29). The regulations further require an applicant to estimate the

gross revenue, operating expenses, net revenue, and net railway operating income, corresponding with the estimates of traffic under question 29. By "net railway operating income" is meant the excess of the credits over the debits to income, as reflected by the operating revenue, operating expense, railway tax accrual, uncollectible railway revenue, equipment rent, and joint facilities rent accounts.

Id. (Question 30).

It is clear from the record, and counsel for Star Lake and Santa Fe conceded at oral argument, that the ICC did not have before it the required information on Santa Fe's expected operating expenses and revenues, though it did have information on Star Lake's estimated construction expenses and revenues. Contrary to the suggestion of Star Lake's and Santa Fe's counsel, the regulations' requirements are not met by the ICC's grant of exemptions under 49 U.S.C. § 10505 (Supp. IV 1980) from the requirement, 49 U.S.C. §§ 11301, 11343 (Supp. IV 1980), that the ICC approve the financing and operating agreements between the two companies, under which Star Lake was to construct the line with financing from Santa Fe, which would rent it from Star Lake and operate it. The grant of those limited exemptions did not, as counsel for Star Lake and Santa Fe contended at oral argument, remove consideration of operating viability from this proceeding.

In some circumstances, failure by the ICC to insist on strict compliance with its regulations affords no basis for invalidation of its approval of a rail line, see *American Farm Lines v. Black Ball Freight Service*, 397 U.S. 532 (1970), but here the required information is easily provided and is critical to the ability of the ICC and of interested parties such as petitioners to evaluate whether the proposed venture will be self-sustaining. Compare *id.* Of course, the ICC retains considerable discretion in assessing the adequacy of the applicants' submissions. See *id.* Nevertheless, it may not completely ignore its own regulations, as it has done here. In this respect the ICC acted arbitrarily and capriciously and not in accordance with law.

II.

On the second issue worthy of attention, petitioners alleged before the ICC that, in attempting to obtain consent to construction of the line from the Indian allottees along the right-of-way, Star Lake was guilty of over-

reaching and of making false and misleading statements. The ICC took the position that these allegations are not within its jurisdiction and that it must defer to the finding of the Department of the Interior, the agency charged with primary responsibility for granting rights-of-way across Indian lands. 25 U.S.C. §§ 312, 323 (1976). Instead of awaiting and then acting upon Interior's findings on these issues, however, the ICC chose to defer to Interior by ignoring the allegations and by granting permission to construct the line subject to whatever corrective action the Department of the Interior might choose to take. Since the Department of the Interior thereafter found it unnecessary to pass on the allegations of misconduct, it now appears that no agency will consider the merits of the charges or their relevance to the issues before the ICC.

We cannot agree that the ICC may grant permission without itself considering the Navajo allegations. As shown below, some of the issues raised by the Navajo parties' allegations are relevant to the ICC's statutory duty to consider whether the construction of the line haul will be in compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996 (Supp. IV 1980), and the National Historic Preservation Act, 16 U.S.C. § 470f (1976), and, more generally, whether the construction of the line is in the public interest. 49 U.S.C. § 10901(a) (Supp. IV 1980).

A.

As part of its duties under NHPA and AIRFA, which require the preservation of and access to historic and religious sites, the ICC required Star Lake to guarantee that it would, to the best of its ability, take steps to salvage information from and to mitigate damage to the archeological and religious sites that would be damaged or destroyed by the construction of the proposed line. Somewhat more specifically, the ICC noted in its notice

of authorization that Star Lake would "take steps to substantially mitigate any adverse impacts of its proposal (including fencing the right-of-way, restricting contractors from excessive disturbances of the terrain, and requiring contractors to return disturbed areas to their pre-construction condition)." ¹ Star Lake has reiterated its commitment on this appeal.

In addition to their interests in historic and sacred sites, the Navajo parties also have protected property interests along the right-of-way. It is these interests that are the focus of the allegations of misconduct and of the proceedings before the Department of the Interior. The proposed line crosses large portions of Navajo tribal trust land and individually owned Indian allotment land. The construction would require the relocation of about 250 Navajos. In order to build across Indian lands, Star Lake sought to obtain the consent of the Secretary of the Interior under 25 U.S.C. § 312. Interior has taken the position that, under the Act of March 2, 1899, codified at 25 U.S.C. §§ 312-318 (1976), and the Act of February 5, 1948, codified at 25 U.S.C. §§ 323-328 (1976), and regulation 25 C.F.R. § 169.3 (1982), Star Lake must obtain the consent of the Indian owners along the right-of-way.

The Navajo parties charged that, in its attempt to obtain these consents, Star Lake was guilty of serious misconduct: that it employed coercive tactics, made misleading statements concerning the value of the land and the legal effect of the forms it sought to have signed, and otherwise took advantage of legally and commercially un-

¹ Star Lake Railroad Co.—Rail Construction and Operation in McKinley County, New Mexico, ICC Finance Docket No. 28272, at 7, 12 (March 23, 1981).

When the Environmental Impact Statement was completed, Star Lake had not yet determined the steps it would take to preserve various sites. See 2 Environmental Statement, Ch. IV at 6.

sophisticated owners, many of whom speak or read little English.² A field solicitor for Interior described Star Lake's behavior as unconscionable in at least one instance,³ and the ICC acknowledged that the charges of misconduct were serious. However, the Commission declined to consider the allegations on the ground that the issue was being "fully and fairly addressed" by the Department of the Interior.⁴ For the same reason, the Commission refused to consider the Navajo parties' claims that the proposed right-of-way would violate 25 U.S.C. §§ 312, 313 (1976), which set limits on the conditions under which the Secretary of the Interior may grant a right-of-way.

In subsequent proceedings before the Department of the Interior, the Navajo owners withdrew the consents in question. The Department found the withdrawals valid, and because the owners no longer consented, the Department refused Star Lake permission to build across Navajo land.⁵ It was thus unnecessary for Interior to pass upon the claims that, in obtaining the now withdrawn consents, Star Lake had acted unconscionably.

² The Navajo parties submitted twenty-three affidavits of individual owners alleging that agents of Star Lake misrepresented themselves as agents for the Bureau of Indian Affairs, misrepresented forms consenting to construction as merely forms consenting to a survey, failed to specify a price or later to negotiate a price for land, and told individual owners that they would go to jail if they did not consent to the construction of a railroad across their lands.

³ Opinion of the Office of the Field Solicitor, Window Rock, Arizona, at 3 (Sept. 21, 1979).

⁴ *Star Lake Railroad Co.*, *supra* note 1, at 15.

⁵ *Navajo New Mexico Ranchers Association v. Commissioner of Indian Affairs*, No. IBIA 80-47-A (ALJ, Dep't of the Interior, June 29, 1981), *aff'd*, No. IBIA 80-47-A (Assistant Secretary of Indian Affairs, Dep't of the Interior, Mar. 21, 1982).

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B.

The ICC is charged with determining whether "the present or future public convenience or necessity" requires the construction of an additional railroad line. 49 U.S.C. § 10901(a) (Supp. IV 1980). In carrying out this task, the Commission must consider whether the construction "would subject the communities directly affected to serious injury. . . ." *Colorado v. United States*, 271 U.S. 153, 169 (1926). The American Indian Religious Freedom Act, 42 U.S.C. § 1996 (Supp. IV 1980), the National Historic Preservation Act, 16 U.S.C. § 470f (1976), and the Acts of March 2, 1899, and of February 5, 1948, 25 U.S.C. §§ 312-318, 323-328 (1976), help define the types of injuries from which the ICC must strive to protect local communities. By ignoring the serious charges of misconduct and violations of statutes designed to protect Indian lands, the ICC failed to consider (A) the evidence of bad faith in Star Lake's promises to preserve sacred and historic Indian sites and (B) the public policy of avoiding unnecessary disturbance of the Indians' quiet possession. Thus, we believe that the ICC failed to "draw its conclusion from the infinite variety of circumstances which may occur in specific instances." *ICC v. Parker*, 326 U.S. 60, 65 (1945).

1. *The Charges of Bad Faith*

The failure to consider the allegations of misconduct undermines the Commission's finding of compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and the National Historic Preservation Act, 16 U.S.C. § 470f. AIRFA adopts a federal policy of protecting and preserving "for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian . . . , including but not limited to access to sites. . . ." 42 U.S.C. § 1996. NHPA directs agency heads, in spending money or granting licenses, to take into account the effect on cer-

tain historic sites. 16 U.S.C. § 470f. The Commission attempted to enforce the two Acts in part by requiring Star Lake to make reasonable efforts to mitigate adverse effects on sites along the proposed right-of-way. As the Environmental Impact Statement noted, the area through which the proposed line would pass is unusually rich in archeologically important sites and in sites of religious significance to the Navajos.*

This court held in *Mobil Oil Corp. v. ICC*, 685 F.2d 624 (D.C. Cir. 1982), that the ICC's requirement that a railroad take "reasonably practical" or "reasonably required" "mitigation measures" to protect, among other things, paleontological and archeological resources, placed on the railroad an "obligation of good faith." *Id.* at 639. We affirmed the ICC's decision in that case, noting that the worries about the railroads' good faith were purely speculative. *Id.* Here, however, we are not faced with mere speculation. The ICC was offered evidence of Star Lake's bad faith in dealing with the Indian parties in the closely related matters of acquiring their consents. The Commission's ready acceptance of the railroad's assurances that it would take appropriate steps to mitigate the damage to historic and sacred sites, together with the Commission's ready dismissal, on "jurisdictional" grounds, of allegations that Star Lake's dealings with individual Indians were characterized by coerciveness and unconscionability, does not adequately take account of the federal policies adopted in AIRFA and NHPA.

We agree with the ICC that it may defer to any findings of the Department of the Interior concerning the claims of misconduct. There would, of course, be no need for the ICC to duplicate any Interior Department investigation and report, especially since Interior has the primary responsibility and presumably the greater expertise

* See 1 Environmental Statement, Ch. II at 89, Ch. IX at 7 (Feb. 2, 1979).

in this area. However, we do not believe that the ICC properly defers in this case by itself granting permission before action on the allegations has been taken by the Interior Department. Rather, where, as here, a factual question within the primary responsibility of a sister agency is relevant to the ICC's determinations, the ICC should ordinarily defer by staying its decision pending a determination of the issues by the sister agency and then considering and acting upon that agency's findings. If, for instance, the Department of the Interior were to find that Star Lake has been guilty of bad faith in its dealings with the Navajo owners, then the ICC would have to consider the relevance of that finding to the good faith of the railroad in offering to protect historic and sacred Indian sites. However, since the Interior Department has failed to resolve the question whether Star Lake dealt unconscionably with the Navajo owners, and since the issue is relevant to the AIRFA and the NHPA issues before the ICC, the Commission will be required to accept evidence on the question and to make its own determination.

2. The Right to Quiet Possession

Finally, and more generally, the Act of March 2, 1899, 25 U.S.C. §§ 312-318, and the Act of February 5, 1948, 25 U.S.C. §§ 323-328, reflect a federal policy of avoiding or minimizing the disturbance of the Indians' quiet possession of the restricted domains they now occupy. Although we agree with the Commission that it need not pass on the precise conditions on grants of right-of-way that have already been the subject of proceedings before the Interior Department,⁷ we nevertheless hold that this

⁷ Interior's disposition of the Navajo parties' claim that the proposed line violated 25 U.S.C. § 313 (1976) is unclear. Section 313 sets a maximum width of fifty feet on each side of the center line, with certain exceptions. The parties do not appear to dispute that the proposed line violates this law. However, the Interior's administrative law judge found that the Act of February 5, 1948, 25 U.S.C. §§ 323-328, "allows

policy of non-disturbance may not be ignored by an agency charged with determining whether the building of a new line is in the public interest. The ICC is bound to consider the extent to which the proposed construction is consistent with the public interest in preserving the status of the Navajo tribe as a "quasi-sovereign nation" and in preserving the tribe's ability "to maintain itself as a culturally and politically distinct entity." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 71, 72 (1978).

a right-of-way as wide as reasonably necessary." *Navajo New Mexico Ranchers Association v. Commission of Indian Affairs*, *supra* note 5, at 8. This "finding" clashes with express Interior regulations. Section 169.23(b) of 25 C.F.R. expressly applies the width requirements of 25 U.S.C. § 313 to rights-of-way granted under the 1948 Act, 25 U.S.C. §§ 323-328. On appeal, the Assistant Secretary of Indian Affairs did not discuss this issue. The Secretary simply held that Star Lake had not obtained proper consent and was therefore barred from commencing construction. At this point, the railroad commenced a state action to condemn the land in question. We express no opinion as to the relevance of 25 U.S.C. § 313 and 25 C.F.R. § 169.23(b) to that proceeding.

Lack of clarity in Interior's conclusions about compliance with 25 U.S.C. § 313 does not in and of itself oblige the ICC to address the specific statutory question. We hold only that the ICC must address itself to the federal policies embodied in that and other statutes.

THE NAVAJO NATION
WINDOW ROCK, NAVAJO NATION (ARIZONA) 86518



PETERSON ZAH
VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

EDWARD T. BEGAY
VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

March 10, 1983

MEMORANDUM

TO: Members of the Committee on
Energy and Natural Resources
New Mexico House of Representatives

FROM: Claudeén Bates Arthur, Attorney General
Navajo Nation Department of Justice

SUBJECT: Senate Bills 89 and 90

The Navajo Nation hereby requests that the House Committee on Energy and Natural Resources defer further consideration of Senate Bills 89 and 90 at the present time. We understand that these bills would authorize the use of State funds for construction of railroads to promote energy development.

As you may be aware, during 1981 the Navajo Tribe entered into a right-of-way agreement with the Star Lake Railroad Company for a line of rail into the coal fields of northwestern New Mexico and the Eastern Navajo Agency. Paragraph 18 of that agreement, a copy of which is attached, indicates that the Navajo Tribe may not have given a free and voluntary consent to the granting of the right-of-way. In view of this, the Navajo Tribe has begun a thorough evaluation of the agreement and the effects of the proposed Star Lake Railroad upon its members and the Tribe itself. This evaluation includes an assessment of the legal, cultural, economic, political and environmental aspects of the proposed railroad.

This evaluation was given added impetus on March 1, 1983 when the United States Court of Appeals for the District of Columbia Circuit reversed the decision of the Interstate Commerce Commission granting a certificate of public convenience and necessity to the railroad. The Court's decision indicates that the ICC failed to accord due consideration to federal laws relating to railroad rights-of-way across Indian lands. Moreover, the ICC erred in failing to consider allegations of possible misconduct by Star Lake in obtaining right-of-way grants across Navajo allotted lands. The Court also noted that the ICC had given inadequate consideration to the effect of the railroad on Navajo religious sites and practices as well as the right of quiet possession of lands under the jurisdiction of the Navajo Tribe.

Serious questions have also arisen regarding the ability of the Navajo Tribe and local units of the State government to meet the added social infrastructure demands which would result from the planned railroad. These costs alone have been estimated to be as much as \$5.7 million dollars.

Under all of the foregoing circumstances, and without adequate assurances that Navajo people and local communities will be fully protected it is not possible for us to support any legislation which has even the remote possibility of facilitating new large scale energy development in the San Juan Basin. The Navajo Tribe cannot, under present circumstances, reasonably assume that increased job potential will outweigh these serious concerns. We respectfully submit that these same considerations pose serious problems for our non-Navajo neighbors in the Basin.

For all of the foregoing reasons we ask that you defer action on Senate Bills 89 and 90. Should satisfactory solutions be found for our concerns, full consideration of these bills could reasonably proceed during later legislative sessions.

Thank you for your time and cooperation.

Sincerely,



Claudeen Bates Arthur
Attorney General

Attachment

CBA/gem

AGREEMENT

This Agreement is made and entered into this 12th day of January, 1981, by and between the Navajo Nation (Nation), for the benefit of the Pueblo Pintado and Whitehorse Lake Chapters of the Navajo Tribal Government, hereinafter called "Chapters" and Star Lake Railroad Company, and The Atchison, Topeka and Santa Fe Railway Company, with address at 80 East Jackson Boulevard, Chicago, Illinois 60604, hereinafter referred to as "Railroad Companies."

In consideration of the mutual covenants, promises, terms and conditions set forth hereinafter, and the endorsement by the Chapters of the construction and operation of Star Lake Railroad, the above-named parties agree as follows:

1. The Railroad Companies shall comply with and adhere to all laws concerning the environment applicable to the construction and operation of railroads in interstate and intrastate commerce. The Railroad Companies shall reclaim and reseed all disturbed surface where appropriate in the right-of-way corridor and any other lands disturbed by the Railroad Companies. Such reclamation shall be considered completed only after the revegetative stand achieves the vigor and variety of the original revegetative cover. Such reclamation shall be completed by the Railroad Companies within ten years of the initial surface disturbance.
2. The Railroad Companies shall provide for underpasses and grade crossings along the right-of-way easement over tribal trust lands and located at intervals no greater than one mile measured linearly along the center line of the proposed railroad. Such underpasses and grade crossings shall be large enough to permit normal vehicular traffic so that each resident will have free access to hospitals.
3. The Railroad Companies shall construct, operate and maintain the proposed railroad such that refuse and trash are disposed of expeditiously at the Railroad Companies' expense. At the option of the Railroad Companies, the Nation and its Chapters may be required to provide sites for the use of the Railroad Companies for disposal of trash.
4. The Railroad Companies shall be required within thirty (30) days of this Agreement to submit a proposed handbook concerning damage claims, policies and procedures. After review by the Nation (Tribal Land Administration of the Navajo Tribe), such handbook shall be revised so that it is acceptable to the Nation and the Railroad Companies and such handbook shall, in addition, meet the minimum requirements of the Navajo Tribal Code as of August 1, 1980.
5. In carrying out their duties under the handbook concerning damage claims, the Railroad Companies shall employ a member of The Navajo Tribe of Indians as their claims representative who shall have jurisdiction over the investigation and processing of damage claims. Such employee shall be remunerated by the Railroad Companies at an appropriate rate of pay commensurate with other employees of the Railroad Companies in similar positions.

6. Damage claims shall be honored at least to the following extent:

(a) compensation for all physical interference occasioned by the construction, maintenance and operation of the proposed railroad; such compensation being either the fair market value, or the replacement cost of the interest or property held immediately before the injury to said interest or property, whichever is the greater;

(b) fair rental value of the grazing lands used by individual Navajos, or (if this cannot be achieved and if an exchange is mutually preferable) an exchange of surface uses if the Railroad Companies acquire surface uses from other land users;

(c) the greater of fair market value, or replacement cost of any improvements in existence on the date of this Agreement within 100 yards of the nearest exterior boundary of the proposed right-of-way corridor, such improvements including, but not limited to, fences, water troughs, livestock corrals, outhouses, water pipes, graded stock ponds, but excluding dwellings;

(d) fair market value of livestock and pets; and

(e) replacement homes and relocation costs for all dwellings existing as of the effective date of this Agreement within 100 yards of the nearest exterior boundary of the right-of-way corridor, the design and location of said home and the amount of said costs to be agreed upon by the parties within six months of the effective date of this Agreement, and the completion of construction of such homes, and the recompense for such relocation costs being accomplished prior to construction of the proposed railroad on the affected property.

7. If the Railroad Companies locate any burial site in any area used by the Railroad Companies for construction, maintenance or operation of the proposed railroad, the Railroad Companies shall immediately cease any activity which might reasonably be expected to disturb such burial site and shall immediately take all necessary and desirable steps to transfer the remains and any associated artifacts or paraphernalia to cemetery sites to be provided by the Chapters.

8. The Railroad Companies shall comply fully with the National Historic Preservation Act, and, in addition, if the Railroad Companies locate any sites which may be eligible for The National Register of Historic Places or if the Railroad Companies locate any cultural artifact, the Railroad Companies shall immediately cease any activity which might reasonably be expected to disturb such site or artifact location and shall immediately inform the Tribal Cultural Resource Department of their discovery or findings. The Tribal Cultural Resource Department shall, within ten working days of such notification, determine, with the consultation of the Railroad Companies and, where appropriate, with The Advisory Council on Historic Preservation, a mitigation plan which shall be adhered to by the Railroad Companies.

9. The Railroad Companies shall be required within thirty (30) days of this Agreement to submit a proposed handbook concerning conduct of their employees, agents, and contractors/subcontractors, which, after review by the Nation, shall be revised so that it is acceptable to the Nation and the Railroad

Companies.

10. The handbook described in paragraph 9 will require the following conduct of the employees, agents, contractors/subcontractors of the Railroad Companies:

- (a) No possession of unauthorized firearms while in the Eastern Navajo Agency or Navajo Reservation;
- (b) No possession of alcoholic beverages or illegal drugs while in the Eastern Navajo Agency or Navajo Reservation;
- (c) No cutting of fences or leaving gates open so as to create a risk of livestock loss or injury;
- (d) No hunting or fishing in the Eastern Navajo Agency or Navajo Reservation without a valid license or permit from the Navajo Tribe;
- (e) No bringing of domesticated wild animals for pets, so as to create a risk to livestock or persons;
- (f) No corralling of livestock unlicensed or unpermitted by Tribal law or regulations;
- (g) No activities to delay settlement of damage claims for damages illegally caused by the Railroad Companies, their employees, agents, or subcontractors; and
- (h) No reckless or negligent use of vehicles.

11. For purposes of implementing the standards specified in the handbook concerning conduct of employees, agents and contractors, the claims representative employed by the Railroad Companies as required in paragraph 5 shall evaluate complaints brought to his or her attention and make findings and recommendations (including findings as to the performance of the Railroad Companies under this Agreement) to the Office of Navajo Labor Relations and to the Railroad Companies.

12. The Railroad Companies do hereby commit to be good neighbors to the Navajo Communities affected by its construction, operations and maintenance. In carrying out this commitment, the Railroad Companies will do the following:

- a. In case of "natural emergencies," as determined by the Chairman of the Navajo Tribal Council, the Railroad Companies will lend their plants, equipment, labor and facilities to alleviate distress and hardship incurred by the Navajo people;
- b. The Railroad Companies, when reasonably permitted by railroad work assignments, will lend, without charge, their equipment and personnel to help with the following community projects:
 - (1) Build community livestock yards made of metal (one northeast of Pueblo Pintado Chapter and one south of

the Whitehorse Lake Chapter).

- (2) Build earthen dams, where desired by any Navajo land user within five miles of the right-of-way.
- (3) Assist the Chapters in the construction of roads and bridges to cemetery sites established by the Chapters for relocation of remains pursuant to Article 7.

c. The Railroad Companies agree to build three sidetracks (one northeast of the Pueblo Pintado Chapter, one near Mr. Juan Abeita's residence, and one in the Hoshpah oil field area south of the Whitehorse Lake Chapter House).

The exact locations of the three sidetracks will be agreed on upon the Railroad Companies' submission of the railroad right-of-way plan to the Chapters, such sidetracks to be used by the Chapters for loading and unloading of cargos for the Chapters and their constituents.

13. The Railroad Companies, subject to applicable union agreements and applicable federal law, shall employ, and shall require their contractors to employ as many qualified Navajos as are available for the construction, maintenance and operation of the railroad line. For this purpose, the Railroad Companies shall --

a. Subject to applicable union agreements and applicable federal law, establish construction and rail job training programs at the Crown-point Skill Center and will make available to eligible Navajos such other job training programs as are available.

b. To the extent necessary to fill available positions for which skilled Navajos are not available, provide training for non-skilled Navajos sufficiently in advance of actual construction, or change of techniques of operations during the maintenance and operation of the railroad line. Upon request of the Railroad Companies, the Chapters shall provide necessary sites (for less than or at fair rental value) for training purposes (one immediately next to the Whitehorse Lake Trading Post in the abandoned school building; and one immediately north and within the chapter-withdrawn land at the Pueblo Pintado Chapter).

c. Provide the Chapters, at least once each month, with notices of employment vacancies, training opportunities, and employment notices to all eligible Navajos who may wish to apply for jobs with the Railroad Companies.

d. Give preference to the use of qualified Navajo individuals or Navajo corporate contractors with experience in the type of work to be performed, who are available in the Navajo Country where contracting is needed. The Office of Navajo Labor Regulations of the Navajo Tribal Government shall obtain through public notices to the Navajo people a list of qualified and available Navajo contractors and give the list to the Railroad Companies for the purpose stated herein.

- 1 e. Provide management training programs at no cost to qualified Navajo employees of the Railroad Companies.

14. The Railroad Companies, through their affiliated charitable foundation, will enlarge the existing college scholarship program to include two additional scholarships to be available immediately to qualified members of the Navajo Tribe. Additional scholarships can be made upon notification and agreement of the Railroad Companies and the Navajo Tribal Council. The Railroad Companies shall provide the Chapters and the Office of Higher Education of the Navajo Tribal Government with procedures for application within 30 days of the effective date of this Agreement.

15. The Railroad Companies will assist the Chapters in the development of potable water systems through the construction of facilities suitable for the procurement and treatment of 100,000 gallons of potable water per day from existing wells and an additional well to be drilled by the Railroad Companies.

16. The Railroad Companies, upon their expression of willingness, will cooperate and support the Navajo Tribal Government concerning certain county, state and federal legislation beneficial to both the Nation and the Railroad Companies, or beneficial to the Nation.

17. The Nation endorses the construction and operation of Star Lake Railroad and hereby agrees to grant an easement for and to consent to a right-of-way for the construction, maintenance and operation of a railroad on, over and across lands owned in fee simple by the Nation and land held in trust by the United States for the Navajo Tribe of Indians, such endorsements being, by virtue of the public policy of the Nation, conditions precedent to a grant of rights to the Railroad Companies.

18. Where consistent with its terms, this document is to be construed to the benefit of the Navajo people and Tribal government, with the purpose in mind of fostering understanding of and respect for the land, environment, culture and religion of the Navajo Nation in the greater eastern part of the Navajo Indian Country in these United States. Also, where consistent with its terms, this document is to be construed with the history of Navajo and Indian relationships with railroads and the Federal Government in mind. Such history includes the conditioning of the release of Navajo people from Bosque Redondo on the promise that Navajos would not interfere with railroads then being built; with the taking of vast tracts of unceded Indian lands by the railroads with the condoning or knowing inaction of the Department of the Interior; with the assertion of Navajo Tribal sovereignty and jurisdiction in Eastern Navajo; with the present intentions of our Congressman/trustee who will not consider Navajo (public) needs until private rights are granted to the Railroad Companies; and with the expressed intention of the Secretary of Interior to grant a private right-of-way over the considered objections of the Navajo Nation.

19. This Agreement shall be effective on the date hereof and shall terminate in accordance with the provisions of 25 C.F.R. § 161 and the Interstate Commerce Act.

20. This Agreement is binding upon the successors and assigns of the parties hereto.

21. Notwithstanding anything to the contrary contained herein, the Navajo Nation shall be entitled to exercise such powers as are otherwise lawfully incident to its sovereignty. In exercising such powers of self-government, it shall not deprive Railroad Companies of their property without due process of law, take Railroad Companies' property for such use without just compensation, or deny Railroad Companies the equal protection of law.

IN WITNESS WHEREOF, the Nation and the Railroad Companies have caused this Agreement to be signed in their behalf by their duly authorized representatives this 12th day of January, 1981.

THE NAVAJO NATION

By P. MacDonald
Peter MacDonald, Chairman
Navajo Tribal Council

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

By _____

Robert Balason

THE STAR LAKE RAILROAD COMPANY

By _____

Chairman DOMENICI. Before we proceed to the next panel, Mr. Davis, let me ask you this. You are guardedly optimistic, but let me try to ascertain what you are guardedly optimistic about.

Can you look at the map that is on the Pohlmann testimony?¹

Mr. DAVIS. Well, absent the legal problems we have at the moment, construction would now be under way to construct from the connection with the Santa Fe Railway near Prewitt or Baca, as we call it on the railroad, up to the mines identified as Chaco Energy, South Hospah Mine, and the Santa Fe Mining and Lee Ranch mines. Unless additional agreements are reached with prospective shippers of coal, the next segment would be constructed from the South Hospah area up to the Alamito Coal Co. at Gallo Wash, so that, if I remember correctly, shipments could commence about 1986 or 1987.

There is no timetable for construction beyond Alamito Coal Co., but I feel compelled to point out that you cannot move any coal from up at the other end until there is a way to get it down at the lower end, and it is designed simply to build up as the area expands so that the coal will have a way to get to market. If the other railroads are constructed—and we have no objection to their being constructed—most of the Star Lake Railroad would have to be constructed in any event in order to reach the coal deposits.

Chairman DOMENICI. I am looking at the same map you are looking at, and I am having trouble following. Can you help me for just a minute?

Mr. DAVIS. Well, would it help if I stepped over to the board?

Chairman DOMENICI. Yes; that might be helpful.

Mr. DAVIS. If we were free from the court restrictions at the moment, we would have under construction—they show approximately 30 miles—but it is really about 27 or 28 miles up to this point. This would take you to Chaco Energy to the connection with the spur, over to the Santa Fe Mining Lee Ranch Mine.

Now, shipments from this mine were scheduled to begin in about a year and a half. There is no fixed schedule when shipments would commence from the South Hospah Mine. Shipments are scheduled to commence from the Alamito Coal Co. Mine, and I do not remember offhand, but it seems to me it is around 1987 or 1988 when coal will start to come out of there. So, sometime between now and that time, this much of the railroad would be completed.

There is no timetable for the 10 miles out to the Star Lake Mine, nor is there a timetable for the construction for the 30 miles from the Alamito Mine over to the reservation boundary.

We have an application pending before the Commission for this section from here over. The Commission has not acted on that.

Chairman DOMENICI. And that is the ICC?

Mr. DAVIS. The Interstate Commerce Commission; yes.

There is no application on file for this portion from end of track up to Farmington. But that has been considered in the regional environmental impact study. But this was all that was considered a tier 1 project, out to here and over to the reservation boundary.

¹ See p. 61.

INHIBITORS TO RAILROAD CONSTRUCTION

Chairman DOMENICI. All right. Now, in addition to the remand to the ICC, what other inhibitors are there to proceeding with the tier 1? What about right-of-way acquisition?

Mr. DAVIS. Well, we do not have all the right-of-way complete—we do not have that beyond South Hospah, do we—just parts of it beyond. We have been concentrating on the part for which we have the immediate need.

Chairman DOMENICI. The “immediate need,” you have described as being that first—

Mr. DAVIS. Roughly, the first 30 miles.

Chairman DOMENICI. For which there is a need to deliver coal by a fixed date.

Mr. DAVIS. Yes; that is required to get to the Lee Ranch Mine. There is a fixed date for that. There is no fixed date for the South Hospah. But that is only about 4 miles additional construction.

Chairman DOMENICI. All right.

Now, both of those, as far as coal supply—who owns the basic coal in those two first planned sites?

Mr. DAVIS. Well, the coal at Santa Fe Mining is owned by a Santa Fe Industries subsidiary. The coal at South Hospah is owned by Santa Fe Industries subsidiary, and it is under lease to Texas Utilities at Chaco Energy.

Chairman DOMENICI. So that if we went that far, we would not be providing, from what we know, a facility to transport any mined coal other than that in which the Santa Fe has a significant interest; is that correct?

Mr. DAVIS. That is absolutely correct. On the other hand, there is no coal between Prewitt and that dark line across there, marked, “Strip Coal.” No one else, to my knowledge, has any ownership of coal in that area in mineable quantities.

Chairman DOMENICI. I understand. But basically, the need for that is based upon the fact that Santa Fe or Santa Fe subsidiaries have succeeded in developing a need for their coal, and my question has to do with any other coal in the region that might be subject to mining and delivery cannot be served by that. That is almost by definition.

Mr. DAVIS. No; that is just an accident of geography.

Chairman DOMENICI. Yes—well, I do not know that, but I will take your word for it. It seems like that is right.

Now, if you went with the next part, you would be making available for delivery coal that Santa Fe does not have an interest in?

Mr. DAVIS. Santa Fe has an interest in the coal. This coal at Alamo Coal Co. is under lease to a Tucson electric power subsidiary. This is Santa Fe Mining or Santa Fe Industries' coal. The same can be said for the Star Lake coal. Over here off the map, Freeman United Coal Co. has coal deposits over there. Now, I cannot give you a definitive status on the leases, whether these are leases or prospecting permits or what they are. But as you come west from here, you come to Arch Minerals, Eastern Associated, Salt River Project, and Consolidation Coal is right over here at the Burnham Mine, just a short distance over the reservation boundary. And I

guess Sun Belt—I presume these are all marked on Mr. Pohlmann's exhibit, also—but this is the ownership on beyond.

RAILROAD OPERATING IN 1½ YEARS

Chairman DOMENICI. Then, could you even—limited by the unknowns and the actions that others have to take—could you again tell us what the timetable, as you see it, for the railroad as you propose it is again, so that I will understand it and have it on the record?

Mr. DAVIS. Well, absent the legal impediments, we would expect to have the railroad in place to South Hospah and to the Lee Ranch Mine within a year and a half. We would expect to have the railroad in place to Alamito Coal Co. at Gallo Wash in about another 3 years after that, so that is 4½ years. And there is no date in mind on when we would be to the others, but we could have the whole thing done physically roughly 2 years from now, if we had a commitment from shippers so that we knew the railroad would be used. We created a financing vehicle here about a year and a half ago, a limited partnership, under which the initial portion of the line is being constructed, and we are not limited to that as the only way we can consider financing, but we developed that as a way to share the risks and the rewards in the private sector for constructing the line.

Chairman DOMENICI. Now, again, in terms of how much further it goes with reference to serving Farmington itself, if I read you correctly, your tier 2 seems to have some feasibility built into it, but beyond that, the 30 miles, what you were saying, if I understand you correctly, is that you know of no economic justification for that, predicated on your typical way of evaluating a railroad; is that right?

Mr. DAVIS. Yes, that is correct, Senator.

Chairman DOMENICI. But if it was 30 miles away, as you view it, that would be rather typical in terms of at least a piggyback approach to serve Farmington, from your normal operations?

Mr. DAVIS. Yes, that would be typical, not in a city of this size, but in a metropolitan area, it is not unusual to transport trailers 40, 50, 60 miles to the railhead for loading piggyback. We have under construction a piggyback terminal now, midway between Chicago and Indianapolis, that is just a mile or two off I-65.

Chairman DOMENICI. We will remain in close contact with you and with others in the area. I want to thank you for your testimony.

INTEREST IS TO EXPEDITE ALTERNATE TRANSPORTATION NEED

And Mr. Pohlmann, after reviewing this further, we will evaluate your suggestion and communicate to you and the community as to any other impediments to it beyond those that you might have seen, along with any solutions to them. Obviously, my interest is to expedite a railroad into the area, basically for the delivery of coal, but beyond that, as an alternate means of transportation to an area that is desperately in need of some alternatives.

In a sense, economics governs, but I personally want to continue to be involved, because I think we have to be concerned about a

broad base of interests and a broad base of coal beyond that which is solely controlled or owned by the Santa Fe Railroad, and we will advise everyone in the near future as we continue to work together.

I thank both of you for your testimony, and in particular, Mr. Pohlmann, I thank you for your innovative idea. There would be no reason why we could not use the corps, other than their capacity and some allocation of money, but obviously, we do not want to proceed on many fronts all at one time, if it is indeed feasible to do it another way, but I appreciate the suggestion.

Yes, Senator Morgan.

USE HIGHWAY 371 RIGHT-OF-WAY

Mr. MORGAN. Senator, I believe we discussed the use of the Highway 371 right-of-way back in Washington a couple of months ago, and I believe you requested Linda, or at my request, to survey the Secretary of the Interior to ascertain what limitations might be involved as far as the Secretary of the Interior is concerned in the utilization of the Highway 371 right-of-way for railroad purposes.

Chairman DOMENICI. Yes, sir.

Mr. MORGAN. I would like to renew that request, if I might, because I think it is perhaps a first step that we must address before proceeding further on the 371 right-of-way.

Chairman DOMENICI. It is in the process of being evaluated, and let me say publicly, the right-of-way situation on a roadbed right-of-way such as 371 is not as simple as it might appear on the surface, because while one might think a right-of-way is a right-of-way, that really is not the case. A right-of-way is a right-of-way as described by the documents granting it with reference to use. Believe it or not, we have had a number of situations in this State where a right-of-way to a municipality for public use as a thoroughfare and for transportation has not been construed to be a right-of-way to put a water line 15 feet underground. It would not interfere with travel at all. So we have similar situations here.

Let me say, however, at this point that if that were all feasible, as it pertains to the Federal Government, it is not an insurmountable job to correct the right-of-way limitations by law. So in a sense, that will be looked at from that standpoint, also.

Yes, Sosimo?

PROBLEMS WITH USE OF HIGHWAY 509

Mr. PADILLA. Senator, Larry was informing me that we are proposing the improvements in Highway 509 in the same area where they are talking about the railroad, and I believe he is saying that there are areas there where they would overlap each other. We would have serious problems there with the road, with the new proposed improvements on 509, and then for the railroad to come in and overlap. I can understand what would happen then, and it would be a serious problem between the highway department and the railroad.

Chairman DOMENICI. You are speaking of the alternate that Mr. Pohlmann has suggested, or the Santa Fe?

Mr. PADILLA. That Santa Fe has suggested.

Chairman DOMENICI. Well, I think, obviously, the Santa Fe's ideas have been longstanding, and I would assume that you will all have to work together in terms of some kind of joint use or the like.

Thank you all very much.

Chairman DOMENICI. Our next panel is on water infrastructure needs, and we are going to have to go kind of fast—Steve Reynolds, State engineer; Lee Brown, University of New Mexico Department of Economics; Jim Dunlap, chairman of the county commission, and John Atkins, vice president and general manager of Utah International.

Steve, thank you very much for coming. It seems to me that from day to day, you are confronted with more and more problems, and I regret having to impose upon you today to come up here and talk to us, but I am most appreciative.

We certainly want to limit our testimony today to water infrastructure needs. We could spend the whole day talking about the ambivalent state of our water rights law, but we will not use this occasion, hopefully, to either inventory that or attempt to address it.

Thank you again. We will make your statement a part of the record, and you can proceed.

Mr. REYNOLDS. Thank you, Mr. Chairman.

STATEMENT OF STEVE E. REYNOLDS, NEW MEXICO STATE ENGINEER

Mr. REYNOLDS. I do appreciate the opportunity to present this statement to your distinguished Budget Committee. I have been invited to brief it, and I will try, Senator, just to hit a few of the high points.

But as I am sure you know, water is so nearly ubiquitous it is often not appreciated that it is essential to the welfare of any society. But the essential nature of the water infrastructure is usually quite evident in an arid State such as ours.

In northwestern New Mexico, that infrastructure is the water that we are entitled to under the Colorado River compacts. The New Mexico Interstate Stream Commission has estimated that entitlement to be the depletion of 727,000 acre-feet annually of the waters of the San Juan system. As we proceed with the development of that resource, Senator, there will be an increase in the need to improve and expand other elements of the infrastructure such as municipal water and sewerage systems, electric energy generation and distribution, public transportation, school, and other buildings. Other witnesses would be better able than I to tell you the current and projected magnitude of the need for these elements and how S. 532 could help us in meeting those needs.

NAVAJO RESERVOIR SUPPLY CONTRACTS

In 1963, the Department of the Interior, at the State's insistence, made an estimate of the water that New Mexico is entitled to under the compact. To avoid a controversial interpretation of the Colorado River compact, the commissioner of reclamation made a conservative assumption that the upper division States would be

required to meet one-half of our obligation under the Treaty with Mexico and found that New Mexico is entitled to a depletion rate of only 647,000 acre-feet annually. However, the commissioner of reclamation was able, by rejecting development in the other upper division States, to allow contracts for municipal industrial use from the Navajo Reservoir supply amounting to 100,000 acre-feet annually. Now, only about half of that has been contracted. We are now a little more than 20 years from the year 2005, and the remaining 50,000 acre-feet is not very attractive for an industrial development that would require several years of construction, 25 to 30 years to amortize the investment. For this reason, the Interstate Stream Commission has asked the Secretary to extend the termination date for those Navajo Reservoir supply contracts to 2,039, either by revising his assumptions concerning the provisions of the compact or by revising his projections of water development in the other upper division states.

I think it is clear, Senator, that his reaction to that request is critical to the infrastructure of San Juan County.

NAVAJO INDIAN IRRIGATION PROJECT

With respect to the Navajo Indian irrigation project authorized in 1968, it is now only about 43 percent complete. Thus far, the United States has invested some \$229 million in it. Another \$300 million is going to be required to finish it. There is nothing proposed in the President's budget for fiscal 1984 for construction of that project. It seems to me that for the reason that that project is nonreimbursable by law, S. 432 would probably have no application there. But a change in Federal policy that would accelerate the completion of that project would be very helpful in developing part of the infrastructure badly needed by the tribe and the rest of the State.

With respect to the Animas-La Plata project, Senator, as you know, it is in all respects ready for construction. The four entities that would be served in New Mexico—Aztec, Farmington, Bloomfield, and La Plata Conservancy District—have given the Secretary of the Interior letters of intent to enter an appropriate contract for that water supply. But the budget for fiscal 1984 includes no funds for construction of that project.

The Department of the Interior representatives have suggested that if the States were to put up the costs allocated to non-Indian municipal and industrial water supply, the President might then seek funding for fiscal 1984. Our legislature had an opportunity to consider that question this last session, but the bill was tabled in the Senate Finance Committee. As you know, the State is in very difficult financial circumstances.

Chairman DOMENICI. How much would that cost-sharing have amounted to?

Mr. REYNOLDS. It would have amounted to \$23.2 million, Senator, over a 10-year period; the first year, about \$500,000.

Chairman DOMENICI. With a Federal Government cost of how much?

Mr. REYNOLDS. The total project cost is \$540 million. The \$23.2 million was allocated to non-Indian municipal and industrial water

supply in New Mexico. About \$88 million of the total cost of the project is allocable to uses in New Mexico, including irrigation over on the La Plata River.

I think that if the States are going to be required to put up front-end money for water project construction, S. 532 could have an important effect. I notice that the bill limits the repayment period to 20 years, and that is, of course, very short compared to the usual 50-year repayment period for a water project, but if the interest rates are flexible, as I understand they would be, then that 20-year limitation would not be a serious impediment.

ANIMAS-LA PLATA PROJECT

With respect to the Gallup-Navajo project—and this is a project that the Navajo Indians are very much interested in and much prefer to service from the Animas-La Plata project—the Bureau has completed a study, and total cost is estimated at \$350 million and serve as many as 32 communities on the Navajo Reservation in New Mexico, Arizona, and Utah, in addition to serving Gallup. It would take 29,000 acre-feet of our total supply.

It seems to me that in view of the great cost of that project and the interstate character and involvement of the Navajos, there may be serious question as to whether S. 532 would be applicable there.

Again, Mr. Chairman, I thank you for the opportunity to present this statement.

Chairman DOMENICI. Thank you, Steve.

PREPARED STATEMENT OF S. E. REYNOLDS, NEW MEXICO STATE ENGINEER

INTRODUCTION

Water is so nearly ubiquitous that it is often not appreciated that water is essential to the welfare of any society. But the essential nature of the water infrastructure is usually quite evident in an arid state such as New Mexico. In northwestern New Mexico that infrastructure is the water that we are entitled to under the Colorado River compacts.

The New Mexico Interstate Stream Commission has estimated that entitlement to be the depletion of 727,000 acre-feet annually of the waters of the San Juan River system. As we proceed with the development of that resource, there will be an increase in the need to improve and expand other elements of the infrastructure such as municipal water and sewerage systems, electric energy generation and distribution, public transportation, school and other public buildings. Other witnesses would be better able than I to tell you the current and projected magnitude of the need for these elements and how S.532 could help us in meeting those needs.

NAVAJO RESERVOIR SUPPLY CONTRACTS

In 1963, the Department of the Interior, at the State's insistence made an estimate of the water depletion that New Mexico is entitled to make under the Colorado River compacts. To avoid a controversial interpretation of the provisions of the Colorado River Compact of 1922, the Commissioner of Reclamation made a conservative assumption that the Upper Division states would be required to meet one-half of our obligation under the 1944 Treaty with Mexico and found that New Mexico is entitled to a depletion rate of only 647,000 acre-feet annually. However, the Commissioner also found, on the basis of projections of development in the other Upper Division states, that because of the provision of Article III(b)(3) of the Upper Colorado River Basin Compact of 1948, New Mexico could substantially exceed a depletion of 647,000 acre-feet annually through at least the year 2005. That determination made it possible for the Secretary of the Interior to enter contracts for municipal and industrial water from the Navajo Reservoir. Our files reflect expressions of interest in contracts for Navajo Reservoir supply amounting to 100,000 acre-feet annually, provided that such contracts terminated in the year 2005.

Only about one-half of that 100,000 acre-feet has thus far been contracted for Navajo Reservoir. Our files reflect expressions of interest in contracts for Navajo Reservoir supply water amounting to at least an additional 142,000 acre-feet annually; however, because it is now only little more than 20 years to 2005, the balance of 49,000 acre-feet is not very attractive for an industrial development that would require several years of construction and 25 to 30 years to amortize the investment. For this reason, the state has asked the Secretary of the Interior to extend the termination date for Navajo Reservoir supply contracts to 2039 either by revising his assumptions concerning the provisions of the Colorado River Compact or by revising his projections of water project development in the other Upper Division states. His reaction to our request is critical to the infrastructure of San Juan County.

NAVAJO INDIAN IRRIGATION PROJECT

The Navajo Indian Irrigation Project (NIIP) for the irrigation of 110,630 acres was authorized in 1962. That project is now about 43% complete in terms of total cost. Thus far, the United States has invested \$228 million in the project. The full benefits of that investment cannot be realized until the project has been completed by the investment of another \$300 million. Only \$3 million was appropriated for construction on the project in the current federal fiscal year and the president's budget proposes no construction funds for fiscal year 1984.

In recognition of the obligation of the United States to the Navajo Tribe under the 1868 Treaty the Congress made the NIIP costs nonreimbursable. For this reason the provisions of S. 532 would seem to have no application for this project.

A change in federal policy that would accelerate construction of the project is needed to provide at a reasonable time a component of infrastructure that is urgently needed by the Tribe and would contribute to the economic well being of the people of San Juan County as well as the rest of the state.

ANIMAS-LA PLATA PROJECT

The Animas-La Plata Project was authorized in 1968. The project will supply water for irrigation and municipal and industrial supply in both Colorado and New Mexico. The construction cost of the project is currently estimated at \$540 million; about \$88 million of that is allocable to uses in New Mexico. The uses in New Mexico would deplete 34,100 acre-feet annually of New Mexico entitlement. About 19,000 acre-feet of that would be for municipal purposes and the balance would be attributable to irrigation in the La Plata River Valley. Each of the four entities in New Mexico that would be served by the project, the La Plata Conservancy District, District, Aztec, Farmington and Bloomfield have all given the Bureau expressions of intent to enter contracts for project water as have the appropriate entities in Colorado; the project is in all respects ready for construction.

The President's budget includes no funds to initiate construction on the Animas-La Plata Project. However, representatives of the Department of the Interior have advised that the President might propose construction funding for fiscal year 1984 if the states agree to contribute during a ten-year construction period an amount equal to the costs allocated to non-Indian municipal and industrial water supply. Under that criterion, New Mexico's share was set at \$23 million.

During the session just completed, the New Mexico Legislature, by Senate Bill 319, was given the opportunity to consider making such a contribution. The bill was tabled in the Senate Finance Committee.

Secretary Watt has been quoted several times recently as saying that new water project cost-sharing principles currently under consideration by the Administration would not be applied to projects already authorized. It has been our hope that that view ultimately would prevail. If the states are to be required to pay the costs of federal water projects during construction, S. 532 might be very helpful. The bill would limit the repayment period for loans from the State Infrastructure Bank to 20 years, which is short compared to the 50 years normally allowed to repay the cost of a federal water project; but if the interest rates are flexible, as I understand they would be, a 20 year limitation would not be a serious impediment.

GALLUP-NAVAJO PROJECT

The Bureau of Reclamation has completed a draft feasibility report on the Gallup-Navajo Indian Water Supply Project. That draft is currently under internal review by the Department.

The preferred plan for the project would divert water from San Juan River at Farmington to serve Gallup and as many as 32 communities on the Navajo Reserva-

tion in New Mexico, Arizona and Utah. The cost of the project is estimated at \$350 million on the basis of October, 1981 prices. The project would deplete about 29,000 acre-feet annually of New Mexico's entitlement.

The total cost of the project, its interstate character and the involvement of the Navajo Tribe may suggest that the provisions of S. 532 would not be applicable. It is clear that the feasibility of the project hinges on the Secretary's response to the State's request for an extension of the termination date on contracts for municipal and industrial water from the Navajo Reservoir supply.

FLOOD AND SEDIMENT CONTROL

An important element of the water infrastructure is works for flood and sediment control. The Sacramento District of the Corps of Engineers has underway at this time a review survey for flood control and other purposes on the San Juan River and its tributaries.

High flows on the Animas River threaten the Town of Farmington. Irrigation structures on both the Animas and La Plata Rivers are threatened by high flows as are municipal diversion structures on the Animas River. Bank erosion threatens structures and fields along all three of the rivers.

Navajo Reservoir provides flood protection on the San Juan River above the confluence of the Animas River. I am sure the Corps' study will give attention to the question whether that protection is adequate for the present and projected development on San Juan River.

The Corps' study is currently scheduled for completion in 1986 at a cost of \$655,000.

I cannot at this time reliably forecast the flood control measures that may be prescribed or the cost-sharing principles that would be applied to the federal works proposed. However, the provisions of S. 532 and a State Infrastructure Bank might be extremely helpful in providing this element of the water infrastructure.

Again, Mr. Chairman, I thank you for this opportunity to present a statement to your distinguished committee.

COST/BENEFIT RATIO OF NAVAJO PROJECT

Chairman DOMENICI. Mr. Reynolds, I would ask you just one question about the Navajo project that you just described which would bring potable water to almost all parts of the reservation and end up at Gallup. That cost of \$350 million, using the normal, Bureau cost-benefit approach, does it have a positive cost-benefit ratio?

Mr. REYNOLDS. Of course, Mr. Chairman, that total cost does not involve the question of benefit, but I do understand that it does have a favorable cost-benefit ratio.

RESERVATION DEVELOPMENT HINGES ON POTABLE WATER

Chairman DOMENICI. I understand to the contrary, but I hope that is right. We will be meeting with them soon. That is a much higher cost than any of us assumed when we got the Bureau involved. I do not know how far we are going to be able to go, but we will be meeting with the chairman of the Navajo Nation tomorrow, and we will be discussing that. That is very long term, but obviously, it has got to be done one of these days, and we will be talking about self-sufficiency and the development of the reservation. It is quite obvious to this Senator that that is not going to occur until there is potable water out on the reservation for the communities. I think that is so basic to—

Mr. REYNOLDS. Senator, I should add that the feasibility that you asked about depends very heavily on the Secretary of the Interior's response to our request for an extension of the time period over which the water would be available.

Chairman DOMENICI. What can we do about that? Shall we proceed to push him to extend that, Mr. Reynolds?

Mr. REYNOLDS. Mr. Chairman, we have been leaning on them particularly, of course, through the regional office in Salt Lake. I am advised that they are moving ahead on it, about to formulate their recommendation and transmit it to the Secretary, so I think perhaps that step should be given a little time, but not long.

Chairman DOMENICI. All right. You tell us when that time arrives, will you?

Mr. REYNOLDS. I will, indeed.

Chairman DOMENICI. And I fully understand the relationship between infrastructure demands and that extension. We just are not going to have the money to build the things necessary to put it to use, and we surely do not want it to lapse, and this hearing provides not an evaluation of the cost of the structures, but rather, just an almost unambiguous statement that we could not afford them within the timeframe presently allotted for use; is that basically what you said?

Mr. REYNOLDS. That is about right, Mr. Chairman.

Chairman DOMENICI. All right. Thank you very much.

Mr. Lee Brown, UNM Department of Economics, we are delighted to have you.

STATEMENT OF F. LEE BROWN, PROFESSOR OF ECONOMICS, UNIVERSITY OF NEW MEXICO

Mr. BROWN. Mr. Chairman, I obviously have no responsibilities over infrastructure with relationship to water. I have been involved in water research for quite some years in the Southwest, and it was on that basis that I was basically asked to testify today and make some comments providing one perspective on water supply and use in the region today.

WATER BEING CONSIDERED AS A COMMODITY

Let me take as my starting point a proposition that has become virtually axiomatic to water discussion in the Southwest. Namely, in essentially every surface water basin we have reached or are nearing, a condition of full appropriation of the naturally occurring streamflow, and in some basins, most notably in Colorado, there is a significant possibility that we may have overreached the reliable, long-term annual flow of the river. Many ground water basins are simultaneously being depleted as water withdrawals exceed natural or manmade recharge. Yet the arrival of full appropriation comes at a time when the States of the region are experiencing some of the highest population growth rates in the Nation with an accompanying increase in demand for municipal, commercial, and industrial use of water.

Against this background, it is not surprising to observe the increasing ascendancy of a commodity view of water, in which water, water leases, and water rights are considered to be no different from any other article of commerce. Many economists, some lawyers, and others have long advocated a commodity perspective on water, and recent court decisions in Sporhase and El Paso have certainly supported them. Even without judicial decrees, however,

the marketplace has been fast giving de facto confirmation that water is a commodity as the price of water rights has escalated dramatically in many basins, reaching in some a price of \$10,000 or more for the right to a consumptive acre-foot of water annually. Rudimentary water markets have sprung up with bid and asked prices being quoted and specialized brokers facilitating transactions by bringing buyers and sellers together.

CAUSE FOR PUBLIC ATTENTION

From a purely economic perspective, it is difficult to argue against this development, although there are several existing and potential problems relating to the marketplace for water that should be cause for public attention. Examples are potential monopolization, third party effects, and the legal exclusion of certain uses, end-stream being the main one.

A well-understood virtue of the marketplace is that increasing scarcity of a commodity relative to the demand for it produces higher prices. While we all oppose general inflation, an increase in the price of an increasingly scarce commodity such as water signals a need to be more conserving in its use, and in fact, is one of the strongest social disciplines available against its misuse.

However, even apart from possible problems with the marketplace for water, there are public concerns that result from a single-minded commodity perspective on water. Specifically, fears and even alarm have been expressed that an exclusive commodity orientation in our water management institutions will result in: First, the virtual destruction of irrigated agriculture in the region, and second, a substantial loss of State and community control over their own future. Both of these fears reflect the fundamental importance attached to water in the West. Water is the symbol of life in an arid region, and consequently evokes strong emotions and actions akin to the "back of the bus" for Southern blacks in the fifties and sixties. Whether institutions built on a pure commodity perspective can encompass and adequately reflect public sentiment, given the symbolic character of water, is an unanswered question that will be tested by future events.

What is clear, however, is that the region is entering a new era of water management in which greater reliance will be placed on alternatives to water development, such as conservation, transfer, quality enhancement and rate change.

Our water institutions are being reshaped by events and decisions to fit the needs of this new era. In this time of change, there is the possibility of injury unless care is taken in fashioning change, but there is also opportunity for the development of innovative approaches to water management. New Mexico has been a leader in this regard by facilitating the evolution of water markets and by pioneering in the integration of ground and surface water administration. Hopefully, this leadership role can be continued.

As for the fears about the future, my professional judgment is that the likely reduction in irrigated agriculture is indeed real, but greatly exaggerated. Transfers of rights from agriculture are certainly occurring, particularly for municipal and energy purposes. The precise degree of shift is unclear and largely undocumented.

However, agriculture water goes a long way in supporting municipal population, and in percentage terms starts from a dominant position in use of water in all Western States.

FARMERS STAND TO GAIN

While there will be increasing pressure for improved efficiency in the use of irrigation water, farmers themselves as rightholders stand to be rewarded substantially should they decide to sell their rights and leave farming. The possible injury here from change is instead to third parties—for example, implement dealers, agricultural researchers, and rural preservationists—and to farming communities as a whole, which neither profit from the sale of rights or have standing to contest a transfer.

The threatened loss of control over the future is more nebulous and less concretely measured and studied. It is therefore more a matter of personal judgment. Though recent court decisions clearly reduce the absolute limits of State and community authority over water, there appears to be considerable authoritative latitude remaining. In my judgment, the question of control in essence is less one of laws and economics and more a matter of community will, spirit, and imagination. As a society, we choose and shape our institutions. To a very large degree, we will lose control of our future only to the extent that we permit it.

I will be happy to respond to any questions.

Chairman DOMENICI. Thank you very much, Dr. Brown.

PREPARED STATEMENT OF F. LEE BROWN, PROFESSOR OF ECONOMICS, UNIVERSITY OF NEW MEXICO AND CODIRECTOR, WATER PROGRAM, CENTER FOR NATURAL RESOURCE STUDIES, BERKELEY, CALIF.

Mr. Chairman and distinguished guests, my name is Lee Brown, and I am a Professor of Economics at the University of New Mexico and Co-Director of the water program for the Center for Natural Resource Studies in Berkeley, California. I have devoted much of my professional career to research on water issues in the Southwest, and New Mexico in particular, and it is on the basis of that research that I was asked to make a few comments today concerning the current and future context for water supply and use in the region.

Let me take as my starting point a proposition that has become virtually axiomatic to water discussion in the Southwest. Namely, in essentially every surface water basin we have reached, or are nearing, a condition of full appropriation of the naturally occurring streamflow and in some basins, most notably the Colorado, there is a significant possibility that we may have over-reached the reliable, long-term, annual flow of the river. Many groundwater basins are simultaneously being depleted as water withdrawals exceed natural or man-made recharge. Yet the arrival of full appropriation comes at a time when the states of the region are experiencing some of the highest population growth rates in the nation with an accompanying increase in demand for municipal, commercial, and industrial use of water.

Against this background it is not surprising to observe the increasing ascendancy of a "commodity view" of water in which water, water leases, and water rights are considered to be no different from any other article of commerce. Many economists, some lawyers, and others have long advocated a commodity perspective on water and recent court decisions in Sporhase and El Paso have certainly supported them. Even without judicial

decrees, however, the marketplace has been fast giving de facto confirmation that water is a commodity as the price of water rights has escalated dramatically in many basins, reaching in some a price of ten thousand dollars or more for the right to a consumptive acre foot of water annually. Rudimentary water markets have sprung up with bid and asked prices being quoted and specialized brokers facilitating transactions by bringing buyers and sellers together.

From a purely economic perspective it is difficult to argue against this development although there are several existing and potential problems relating to the marketplace for water that should be cause for public attention. Examples are potential monopolization, third party effects, and the legal exclusion of certain uses. A well understood virtue of the marketplace is that increasing scarcity of a commodity relative to the demand for it produces a higher price. While we all oppose general inflation, an increase in the price of an increasingly scarce commodity such as water signals a need to be more conserving in its use and in fact is one of the strongest social disciplines available against its misuse.

However, even apart from possible problems with the marketplace for water, there are public concerns that result from a single-minded commodity perspective on water. Specifically fears, and even alarm, have been expressed that an exclusive commodity orientation in our water management institutions will result in:

- 1) the virtual destruction of irrigated agriculture in the region; and
- 2) a substantial loss of state and community control over their own future.

Both of these fears reflect the fundamental importance attached to water in the West. Water is the symbol of life in an arid region and consequently evokes strong emotions and actions akin to "the back of the bus" for Southern blacks in the fifties and sixties. Whether institutions built on a pure commodity perspective can encompass and adequately reflect public sentiment, given the symbolic character of water, is an unanswered question that will be tested by future events.

What is clear, however, is that the region is entering a new era of water management in which greater reliance will be placed on alternatives to water development such as conservation, transfer, quality enhancement and rate change. Our water institutions are being reshaped by events and decisions to fit the needs of this new era. In this time of change there is the possibility of injury unless care is taken in fashioning change, but there is also opportunity for the development of innovative approaches to water management. New Mexico has been a leader in this regard by facilitating the evolution of water markets and by pioneering in the integration of ground and surface water administration. Hopefully this leadership role can be continued.

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stand to be rewarded substantially should they decide to sell their rights and leave farming. The possible injury here from change is instead to third parties (e.g., implement dealers, agricultural researchers, and rural preservationists) and to farming communities as a whole which neither profit from the sale of rights or have standing to contest a transfer.

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I will be happy to respond to any questions you may have.

Chairman DOMENICI. With reference to your last statement with regard to community will, spirit and imagination, I hope you are right. Having read Sporthase and El Paso and Colorado versus New Mexico, I am not sure that community spirit and imagination is going to be the test, but I can assure you we are going to try to fix it back up where that is the test.

Mr. BROWN. Well, that is the imagination I am talking about.

Chairman DOMENICI. Thank you. That is tough.

The Chairman of the county commission, Jim Dunlap, we are delighted to have you here.

Mr. DUNLAP. Thank you, Senator.

STATEMENT OF JIM DUNLAP, CHAIRMAN, COUNTY COMMISSION, SAN JUAN COUNTY, N. MEX.

Mr. DUNLAP. It is indeed a pleasure to appear before you and your committee, and if you at this time do not feel adequately welcome to San Juan County, I would like to do that again.

Chairman DOMENICI. Thank you very much.

Mr. DUNLAP. My remarks will be brief and hopefully to the point. As you are probably aware, due to recent legislation, counties now have the ability to enter into water and sewer projects along with airports. This County is faced with some rather important decisions concerning solving both present and long-range water needs. These areas include both the municipal and industrial and agriculture needs, as well as providing some flood control for the Animas and La Plata River in our area.

FLOOD STUDY LINGERING

I would like to address the flood concerns first. We have, and as you are aware, due to the limited amount of land available in San Juan County, a growing number of homes being built in flood areas. This county in 1978 or 1979 asked for a flood study which you helped us secure. This study has not been completed and in my opinion, has not been conducted in a timely manner. This is an Army Corps of Engineers study. I think your legislation on March the 15 to place the New Mexico area under the New Mexico corps is certainly good legislation.

Chairman DOMENICI. You are presently under what district?

Mr. DUNLAP. Sacramento. Our problem has been a matter of logistics—flying to Albuquerque and driving to Farmington to take care of a problem.

Chairman DOMENICI. We are going to try to get that done, commissioner. That is not easy. It is hard to break those traditions, but we are working on it. Hopefully, one of these days, we will have New Mexico all under New Mexico, instead of places like this under Sacramento as far as the corps. I appreciate you helping us with it, and the more you indicate to us the problems you have with it, the better chance of success we have.

Mr. DUNLAP. We appreciate your help.

WATER STORAGE

The next item I would like to address is the pressing need for water storage. Even with the possible construction of the Animas-

La Plata project, we in San Juan County will still need to provide additional storage for that water. It would seem to me that we should store all the water that belongs to the area for future use and then also industrial uses.

We in San Juan County must have water available to provide for other job-reducing enterprises as our present industries level out. There are presently many thousand acre-feet of water that are allocated to New Mexico that are going down the river to other States.

The cities and rural water users are always attempting to acquire more water, or at least, seeking more water. I have grave concerns about the water being placed into water banks for future use and not producing a net product until they are called upon some years in the future—in other words, removing them from the productive uses at this time.

We have had rural water users in San Juan County who have had to stretch their finances to buy water to provide a guaranteed supply for a Farmer's Home Loan. The water allocated in the Animas-La Plata could have been used to alleviate this expense.

In reference to the Animas-La Plata project as a whole, it is my opinion that up-front money is not in keeping with the other Colorado River projects that have been started or completed. Up-front money, I am sure, as Mr. Reynolds indicated, can be provided if it must in order to assure the use of that allocated water to New Mexico, or San Juan County.

I would also urge the Senator to call for a truly valid cost-benefit ratio study of the New Mexico portion of the M and I water in that project. This does not need to be extensive. I think that study could be done with existing figures.

Chairman DOMENICI. What is that thought addressed at?

Mr. DUNLAP. I think probably that the cost of the \$23.2 million that is being looked for as construction money and the actual benefit that is being developed with those funds is probably not a cost-effective program.

JOBS BILL

Concerning the jobs bill, House bill 1718, as it pertains to rural water involvement, as I understand the purpose of this bill, it is to give some immediate relief to the jobless. If this program is to be effective by October of 1983, then we need to make some changes in our State farmer's home operation. Most loan applications being handled by our State FMHA office take 2 to 3 years.

As the senior vice president of the National Rural Water Users' Association, I have on numerous occasions discussed farmer's home funding with other States, and I find that other States use about 10 to 14 months.

We must remove the bottleneck in funding in our New Mexico farmer's home operation if this program is to be effective.

COMMENTS ON INFRASTRUCTURE BILL

Your Senate bill 532, I think, is very timely legislation that I believe is a step in the right direction. It should solve some long-range financing for large and small water projects—and I speak primarily for the water. It is similar to a bill I understood that was

being sponsored or had been sponsored by Congressman Wes Watkins from Oklahoma, which addressed rural development needs, a revolving fund.

I think you will find that in rural America, we are willing to pay our own way, and all we ask for is a reliable source of loan funds. If in fact grants are needed, I understand your bill makes provision for this.

The refinancing section should be a benefit to the cities in our area that have had to finance bonds during the high interest period. I think the city of Farmington primarily would be interested in that.

I am concerned by the possible definition of those eligible as listed on page 6 of your bill, under "Governmental Units." I think the definition of "governmental units" should be defined as recognized by Farmer's Home standards, so that small rural water co-ops might take advantage of this. As you are aware, we have some 650 of these organizations within the State, and 12 in this county.

We in County government prefer to leave the providing of domestic water to these organizations. I do not think it is an area that we need to get into.

Senator, I want to thank you and your staff for coming to San Juan County, and if I can answer any questions, I will be happy to.

Chairman DOMENICI. Thank you very much.

John Atkins, vice president and general manager of Utah International. We are delighted to have you here, John.

Mr. ATKINS. Thank you, Senator Domenici. Thank you for inviting an industrial user of water to this hearing. My comments will be brief.

STATEMENT OF JOHN ATKINS, VICE PRESIDENT AND GENERAL MANAGER, UTAH INTERNATIONAL

Mr. ATKINS. Today, there are two major powerplants in the Four Corners area. The maximum capacity of these two units totals about 3,850 megawatts of electrical energy. They produce an average of around 2,700 megawatts year-around. They burn 13 million tons of coal and use approximately 50,000 acre-feet of water per year. Local employment at these mines and powerplants averages about 2,400 employees.

As previously mentioned by Senator Morgan, there are approximately 4 to 6 billion tons of strippable, low-sulfur coal available in the San Juan Basin. Unfortunately, the market is limited because of the geographic location and the lack of transportation. I will not dwell on that latter subject. It has been discussed quite a bit today. But it is important in terms of bringing New Mexico coal into production. Studies that I have read indicate that we could have a market potential of up to 20 million tons of coal produced from this area by the year 2000.

I would like to add to that the fact that we still have water available, and that that water that is available—correct me if I am wrong, Steve—but it is about 100,000 acre-feet including ours, which, from the previous figures that I gave you, could bring into production an additional 25 to 26 million tons of coal per year.

I think that Steve brought out very clearly the problem with water in that it has a short time fuse; that it is something that has to be used today, because it is not going to be there maybe 30 or 40 years from now. It will go to other uses. So that any of these kinds of facilities that could be put into the San Juan Basin today must be able to be amortized over a 30- to 35-year life.

I mention all of this from the standpoint of 20 million tons of coal production by the year 2000, another potential 25 million in conjunction with use of water and synthetic fuel plants or electrical powerplants. It is a great amount of coal that would bring into production and create employment in this area for thousands of people, and certainly, that would have an impact on these areas. From that standpoint, I think your bill S. 532 certainly is a timely, needed bill and could come into the future if we could even recognize a fraction of these capabilities that I have mentioned.

I thank you for the opportunity to come forward.

Chairman DOMENICI. Thank you very much.

I had a number of questions, but I am going to defer them because I have one more panel and then am scheduled to speak at a quarter of one or so, so I think I will proceed. But let me make a couple of observations.

ANIMAS-LA PLATA UP-FRONT COST-SHARING

I wish State Senator Morgan was still here, and I will share this thought with him when I see him. With reference to the up-front cost-sharing that was proposed on the Animas-La Plata project, I am not so sure that it is a permanent mistake to not have come up with the up-front money, but let me just share with you where I think things are.

Whether we like it or not, but for the wastewater treatment program, the two other major water programs of the Nation, the Bureau of Reclamation and the corps, they are now perceived by the Senate as a whole as being regional in nature. If you look at the Bureau by definition, 17 States; if you look at where the Corps of Engineers money goes, it becomes quite apparent that it is sort of a Western with a great Southern involvement because of the levy system and the transportation systems on the waterways in the South. So what is happening is that it is getting increasingly more difficult when you take that, and a large number of States know they are very minimally involved, and you add to it the difficulty that the Western States are having as a unit with reference to Bureau of Reclamation projects, with a constant litigation that comes either from State to State, or by environmentalists challenging Bureau projects, and what you have is a result that very few new starts are occurring. As a consequence, water policy in terms of the Federal Government, at best, is in a state of transition or state of flux. The money that is going to it is in desperate shape. My recollection is that in real dollars, we are spending less today, Steve, than 15 years ago, and instead of that trend line going up as we continue to warn ourselves that water may be the next crisis, the support is going down.

UP-FRONT COST-PAYERS GET FUNDED FIRST

Now, there are many notions, including a much broader water program of the country, including water supply, thus encompassing all of the States. There is a block grant notion with cost-sharing that has been thrown around by Senator Moynihan and myself. But basically, none of that is occurring. As a consequence, the last administration and this administration are straddled with no new money to speak of, resulting in few, if any, new starts. What is happening as a result is that the few new starts that are ready, as far as this administration is concerned, are being approached from the standpoint that those who want to come to the trough and pay the up-front local cost-share are being moved to the head of the list, and that is rather ad hoc; it does not follow any true national policy—but neither has the non-cost-share approach. It is 10, 15 years in the planning and who can get there first, with the most power, and get the project funded. That has not been bad for New Mexico, as you have reminded me in the past, Steve, but I think the Animas-La Plata is a perfect example of what the in transition or state of flux situation is. I think had the up-front money been committed—I am not critical—it might have gone to the top of the list and might even have gotten the full support for funding. In any event, those of us concerned with the inadequate funding are not necessarily going to leave the appropriation process as described in the President's budget. We may get Animas-La Plata. I am not sure, but we may.

I do think it is very important, however, that the State begin to look at the feasibility of some up front cost share, even if it is during this transition period, that we be in a posture to quickly respond, thus giving some kind of favorable treatment.

UP-FRONT COST-SHARING DISCRIMINATORY

Quite properly, somebody has suggested that that seems discriminatory in a sense because most of the Colorado River projects were not cost shared, and there are some huge ones half through that we have got to spend lots and lots of money on—maybe a couple of billion for one of them. There is no cost sharing because they are a third finished. I acknowledge all of that. Nonetheless, this area is getting more and more pragmatic from the standpoint of just what do you have to do to get something done. So I could not miss the opportunity to at least discuss that with you, Steve, so you understand, and maybe I ought to get that to some lead legislators in New Mexico and to the Governor, just by way of a view of where things are.

If you would care to comment, I would be glad to hear from you with reference to that. I know it is not a good, solid national policy, but I am really disturbed as to when one will evolve.

"AUTHORIZED EXEMPTION" MEANS PROJECTS UNDER CONSTRUCTION

Mr. REYNOLDS. Just two things, Senator. The legislature, of course, was made aware of this current situation. Second, a big part of the problem is that Secretary Watt continues to say that these new cost-sharing principles should not and will not apply to

projects already authorized. Yet from the other side, some other side of the Department, we get the word that we have got to put up \$23 million if we want a project.

Chairman DOMENICI. Yes, sir. I think his definition of "authorized" from the standpoint of the administration is probably in error. I think it really is more aptly stated that projects under construction, even as to future phases of funding, are exempt, but authorized and unstarted projects are not going to get very favorable treatment unless they cost share up front.

Mr. REYNOLDS. There is evidence that it is just that kind of a communication problem, Senator.

Chairman DOMENICI. Thank you all very much. It is good to have you.

NAVAJO NATION INFRASTRUCTURE NEEDS

Chairman DOMENICI. Our next panel is a panel that is going to discuss some of the Navajo Nation infrastructure needs. John Chabela, special counsel to the Navajo Nation, will be here. John, we welcome you. You are representing the chairman. I understand that he could not be here, but that I am going to meet with him tomorrow in Albuquerque for a couple of hours. Also, Tom Atcitty, New Mexico State representative, come on up and take a seat at the table. Edward McCade, agency supervisor from Shiprock; Larry Holman, BIA in Crownpoint; Donald Benally, tribal councilman; Wilbert Begay, San Juan Chapter House; and Reynold Harrison, San Juan County Commissioner.

Let me welcome all of you and indicate right up front that with reference to the future surface transportation, that is, roads, it is good that we have the Administrator with us, because the way the new law is written, the Indian people of our country will get a set-aside out of the highway trust fund for road construction, \$75 million, then \$100 million, \$100 million, and \$100 million, which is significantly more than we had been appropriating under the roads and bridges law of the country.

DUAL OVERSIGHT FOR IMPROVED INDIAN TRANSPORTATION

However, in giving the Indian people a claim on the trust fund—which probably should have been there from the beginning—Congress created kind of a dual oversight capacity. The Department of the Interior, through the Bureau, had been the sole oversight agency under the Indian roads and bridges appropriation each year. The Department of Transportation, directly mentioning the Secretary of Transportation—of course, the Administrator is the chief right arm—they are now jointly to review the plans and approaches to supplying the Indian people with transportation through the utilization of the set-aside.

I have conferred with the Secretary of Transportation while we were designing the act and while my amendment to allocate it was being drafted, and they do intend to work with the Bureau of Indian Affairs in the development of plans, engineering, and needs, and how we are going to address the overall situation.

Before you testify, I am interested—perhaps we cannot do it in detail—but I am interested in knowing as soon as possible how the

Navajo Nation and the Bureau of Indian Affairs intend to allocate the moneys now available this year, and that is an exceptionally high amount because we lucked out. We got the appropriated account that was in place, and we get the allocation out of the \$75 million, and this year we get the combination of the two—which I understand means \$27 million for the Navajo Nation. That will go down slightly once we get to the \$100 million, divided up among the Indian people. That is a rather significant amount in comparison to what we have used before, and I want to say to you, I have no doubt that it is needed, and even more needed, but I do think it is imperative that we do it right, so we are not subjected to criticism back there, that when we got the money, we did not have the appropriate plans and an overall approach to using it.

With that, John, in behalf of the chairman, I welcome you again, and I hope that you will proceed to share the chairman's views with us.

STATEMENT OF JOHN CHAPELA, SPECIAL COUNSEL, NAVAJO NATION

Mr. CHAPELA. Thank you, Senator Domenici and members of the committee. I want to address several basic issues. One is with respect to our relationship with the Federal Government; second of all, our relationship with the various agencies of the Federal Government that deal directly with the Navajo Nation, and the Bureau of Indian Affairs, and in that discussion to hopefully give you some ideas of what we are doing in order to insure that the allocation of money that will come down into the highway trust fund will be utilized within a short period of time. And then, the next thing I would like to do is to address your request, made in the letter of March 14, 1983, concerning our response and concerning our dealings with respect to S. 532 and the relationship of the Federal Government.

Before I get on with my presentation, I do want to especially thank the Senator for his assistance and the assistance of his staff for the work that he put in on the inclusion of this set-aside for Indian moneys in the highway trust fund. Without the help, I think, of the staff and the Senator directly, perhaps that money may not have come in, and I do want to at this time make sure that the Navajo Nation has rendered its gratitude for the assistance which you have rendered to the Navajo Nation.

Chairman DOMENICI. Thank you very much.

CONDITIONS EXISTING ON THE NAVAJO NATION

Mr. CHAPELA. First of all, I would like to just kind of highlight and summarize for the committee some of the conditions that exist on the Navajo Nation, and although it is not easy to decipher or to ascertain the extent and the exact level of poverty that face the Navajo Nation and its people, it is generally known that the incidence of poverty is profound in every area of the reservation—that is, every area of the 25,000 square-mile reservation on which we live.

Our population numbers approximately 150,000, and of that 150,000, our unemployment rate is approximately 60 percent, while

the general unemployment rate throughout the rest of the United States is right around 10 percent.

Our per capita income as a result of the drastic unemployment rate is approximately \$2,300 per year, as opposed to the per capita income in the United States of approximately \$8,500 per year.

The recent cutbacks in Federal programs and Federal moneys coming to the reservation has caused a tremendous amount of economic impact on the reservation, including the loss of approximately 10,000 jobs as a result of the CETA cutbacks, and another 11,000 jobs as a result of the cutbacks in Federal housing programs.

So I think by these figures pointed out to you and this information presented to the committee, you can see that there is a tremendous need for infrastructure development, for employment-generating type of development to take place on the Navajo Indian Reservation.

The Navajo Nation, as all Indian nations, has attempted to undertake its own programs to alleviate the situation. However, the revenues from which the Navajo Nation can utilize in order to offset some of the devastating impacts of the recession and the Federal cutbacks are simply insufficient at this point.

I am sure you are aware, Senator, that the oil and gas revenues that are coming into the reservation are being reduced as a result of the oil glut that exists in the world, and also, the revenues that come to the Navajo Nation as a result of the cutback in New England production also affects the amount of revenue we can utilize.

INCLUDE INDIANS IN PROVISIONS OF BILL

With that situation in mind, your bill, S. 532, I think, is timely in attempting to address some of the needs of State governments and local governments. There is one thing that I would like to point out with respect to S. 532, that I feel requires your attention and the attention of your staff. The most important comment that I would have on behalf of the nation and on behalf of Chairman Zah is the inclusion of Indian tribes in the provisions of S. 532. As you are aware, the term, "State," that is, the types of municipalities and the types of governmental entities that can be included under the provisions of the bill, does not include Indian tribes. Therefore, all the money that would be provided under the provisions of this bill would flow through the States directly. And I would suggest and recommend to the committee that some provision be made for the inclusion of Indian tribes in the definition either of "State" or in other provisions of title II which allows Indian tribes to participate in the same type of infrastructure, public investment projects.

Chairman DOMENICI. Let me say right there, John, that with reference to the waste treatment part, by definition, it does, because the same definition in the waste treatment has included Indian tribes. With reference to the more general language, you were correct. Frankly, we will be delighted to add it. I personally, in thinking it through, had grave doubts as to how much utility it might have, but I think you are saying nonetheless, it ought to be there, and then, let's see how it evolves in terms of its potential, if I read you right.

Mr. CHAPELA. Yes, I do believe that would be extremely important as far as Indian tribes' participation in the provisions of the act to have language included to specify that the Indian tribes would be eligible to participate in the provisions of this act.

GOVERNMENT-TO-GOVERNMENT RELATIONSHIP

The reason for that particular comment, Senator, is basically to begin to implement the new Indian policy that was enunciated by President Reagan in his January 24 message to Congress and to the Indian people. In that message to Congress, President Reagan indicated that he and all departments of the Federal Government would be dealing with Indian tribes on the basis of a government-to-government relationship, and I feel if that is the policy of the Reagan administration, if that is the policy to be followed by the various departments of the Federal Government, then the inclusion of Indian tribes within the provision of this bill would be appropriate.

There are various mechanisms by which Indian tribes could directly participate, and some of those alternatives have been mentioned previously by other presenters, including block grants, and we are exploring additional mechanisms—for example, a direct funding mechanism—to allow Indian tribes to be more fully participants in these various types of programs.

I mention these simply because those were direct quotes out of the President's message on January 24.

I would just close, Senator, by indicating that the way that myself and Mr. Zah put this presentation together was to simply indicate to the committee what our needs were and to ask our staff to summarize for you some of the various and particular types of needs that the Navajo Nation does face, and what I will do is submit a list to you of our various needs, rather than take your time up with an enunciation and a listing of the various types of projects we would like to see funded, and have the written testimony along with the very specific needs mentioned in there.¹

NAVAJO SHORT-LINE RAILROAD

Let me just briefly indicate that according to our staff, there is an immediate need of approximately \$425 million in infrastructure public investment projects for the Navajo Nation. The types of projects include the proposed Navajo short-line railroad, which is, I believe, the type of public investment project of which this particular bill is specifically attempting to address—that is, it is a project that would be revenue-generating, that would allow Indian tribes to benefit by the transportation, and also allow people in all of northwestern New Mexico to benefit by a transportation system that would connect Farmington and this area with the main trunkline going through Gallup. That is one area in which a tremendous amount of investment would be needed.

¹ See p. 131.

WATER PROJECTS

Other investments which the water panel has also talked about are with respect to the water lines between the San Juan and Gallup and the Navajo Reservation. These are projects that would extremely benefit the Navajo Nation, but also non-Indian communities in northwestern New Mexico.

At this point, the new Zah administration feels that if we can work together on a government-to-government basis, that many of the same types of infrastructure needs that are required and being faced by the non-Navajo communities can also be of extreme benefit to Navajos. And we want to insure and emphasize that the types of projects we are proposing will benefit the general population as opposed to simply benefitting the Navajo population.

ECONOMIC DEVELOPMENT

Lastly, one other infrastructure type of need that the Navajo Nation would like to specifically address is the economic development type of infrastructure—that is, shopping centers and related types of facilities—that also would be revenue-generating and allow the Navajo Nation to insure that the payments under any type of grant could be paid back within the terms of the bill.

Therefore, with the funding of these types of programs, the unemployment rate in the Navajo Nation and also the amount of dollars that would benefit everybody in northwestern New Mexico, I think, would be felt, and we will again present a more detailed list of the types of projects that we wish to have funded.

Again, and in closing, on behalf of Chairman Zah, I want to thank you for the opportunity to present this testimony. I want to assure the Senator and members of the committee that we want to work with you in the development of the alternatives that may be available for the funding of these types of projects. We want to insure that the Navajo Nation does work with other Members of the Congress and with other Indian people to insure that Indian issues are addressed with the full participation of all of the Indian communities—and some of the members of the various Indian communities are with me on the panel today—and we wish that their needs be heard as well.

Thank you very much.

Chairman DOMENICI. Thank you very much.

THE NAVAJO NATION

WINDOW ROCK, NAVAJO NATION (ARIZONA) 86515

PETERSON ZAH

CHAIRMAN, NAVAJO TRIBAL COUNCIL



EDWARD T. BEGAY

VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

STATEMENT OF

JOHN A. CHAPELA, SPECIAL COUNSEL,
OFFICE OF THE CHAIRMAN, NAVAJO TRIBAL COUNCIL,
BEFORE THE SENATE BUDGET COMMITTEE

MR. DOMENICI, STAFF MEMBERS OF THE COMMITTEE, MY NAME IS JOHN A. CHAPELA, SPECIAL COUNSEL TO THE CHAIRMAN OF THE NAVAJO TRIBAL COUNCIL. MR. PETERSON ZAH, CHAIRMAN OF THE NAVAJO TRIBAL COUNCIL, IS UNABLE TO BE HERE TODAY AND HE HAS REQUESTED THAT I MAKE THIS PRESENTATION ON HIS BEHALF. ACCOMPANYING ME IS MR. DUANE YAZZIE, STAFF ASSISTANT TO THE CHAIRMAN.

BEFORE I BEGIN WITH MY PRESENTATION, I WOULD LIKE TO EXTEND THE GRATITUDE OF THE NAVAJO NATION TO SENATOR DOMENICI AND MEMBERS OF HIS STAFF FOR THE ASSISTANCE THAT THEY HAVE PROVIDED IN ALLOCATING \$100,000,000 TO INDIAN NATIONS THROUGHOUT THE UNITED STATES AS THEIR SHARE OF THE HIGHWAY TRUST FUND. THE NAVAJO NATION'S SHARE OF THIS AMOUNT WILL BE \$27,000,000. THE AMOUNT OF MONEY ALLOCATED TO THE NAVAJO NATION IS GREATLY NEEDED TO INSURE SAFE TRANSPORTATION BETWEEN VARIOUS COMMUNITIES ON THE NAVAJO RESERVATION. AGAIN, ON BEHALF OF THE NAVAJO NATION, I EXTEND OUR GRATITUDE.

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BEFORE I ADDRESS THE PROVISIONS OF SENATE BILL 532, THE PUBLIC INVESTMENT INCENTIVE ACT OF 1983, I WOULD LIKE TO SUMMARIZE FOR THE COMMITTEE SOME OF THE SOCIO-ECONOMIC CONDITIONS EXISTING ON THE NAVAJO NATION. ALTHOUGH IT IS NOT EASY TO ASCERTAIN THE EXACT EXTENT OF POVERTY BEING FACED BY THE NAVAJO PEOPLE, IT IS KNOWN THAT THE INCIDENT OF POVERTY IS PROFOUND IN ALL AREAS OF THE 25,000 SQUARE-MILE NAVAJO RESERVATION.

THE POPULATION OF THE NAVAJO NATION IS APPROXIMATELY 150,000. CURRENT BUREAU OF INDIAN AFFAIRS STATISTICS FOR THE NAVAJO AREA INDICATE THE UNEMPLOYMENT RATE AMONG NAVAJOS IN FISCAL YEAR 1982 WAS NEARLY 60%. THIS IS NOT A DIRECT RESULT OF A GENERAL RECESSION. FOR THE NAVAJOS, THE PRIMARY CAUSE HAS BEEN THE REDUCTION IN PUBLIC SECTOR EMPLOYMENT STEMMING FROM THE CUTS IN FEDERAL EXPENDITURES. FOR EXAMPLE, THE CUT IN CETA FUNDS ALONE RESULTED IN THE LOSS OF APPROXIMATELY 10,000 JOBS ON THE NAVAJO RESERVATION. CUTS IN HOUSING PROGRAMS HAVE ACCOUNTED FOR THE LOSS OF AN ADDITIONAL EIGHT TO TEN THOUSAND JOBS.

WITH THE DECREASE IN THE NUMBER OF NAVAJO PEOPLE BEING GAINFULLY EMPLOYED, THE PER CAPITA INCOME OF NAVAJOS HAS DROPPED SIGNIFICANTLY. IN 1980, THE PER CAPITA INCOME OF OUR NAVAJO PEOPLE STOOD AT \$2,200 PER YEAR. HOWEVER, BETWEEN

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1980 AND 1981, THE PER CAPITA INCOME OF THE NAVAJOS FELL TO \$1,700 PER YEAR, A DROP OF \$500.00. DURING THE SAME YEAR, THE PER CAPITA INCOME OF THE GENERAL POPULATION ROSE NEARLY \$500.00, FROM \$8,520 IN 1980 TO \$9,000 IN 1981. THE CUTBACKS WITHIN THE PROPOSED FISCAL YEAR 1984 BUDGET OF THE PRESIDENT WILL MAKE THE DESPERATE ECONOMIC CONDITIONS ON THE NAVAJO RESERVATION EVEN WORSE. WITH THIS BACKGROUND, LET ME NOW PROCEED WITH THE PRESENTATION OF PUBLIC INVESTMENT PROJECTS THAT ARE NEEDED ON THE NAVAJO RESERVATION TO ALLEVIATE THE DISMAL ECONOMIC SITUATION WE NOW FACE.

THE NAVAJO NATION IS A DEVELOPING NATION AND, AS SUCH, REQUIRES LARGE CAPITAL OUTLAYS FOR BASIC INFRA-STRUCTURE DEVELOPMENT TO PROVIDE A SOUND BASIS FOR NATION BUILDING. PRIOR TO COMING TO FARMINGTON, THE CHAIRMAN'S OFFICE REQUESTED THE NAVAJO DIVISIONS OF ECONOMIC DEVELOPMENT, CHAPTER DEVELOPMENT, AND COMMUNITY DEVELOPMENT TO PREPARE A LIST OF NEEDED PROJECTS THROUGHOUT THE NAVAJO NATION. ATTACHED TO THIS STATEMENT IS THE LISTING THAT HAS BEEN PREPARED BY OUR VARIOUS DIVISIONS. I WILL ONLY MENTION A FEW OF THE MORE IMPORTANT PROJECTS, AND FOR THE SAKE OF BREVITY SIMPLY REQUEST THAT YOU AND YOUR STAFF REVIEW THE INFRA-STRUCTURE NEEDS THAT HAVE BEEN INCLUDED WITHIN THE ATTACHED LIST. A TOTAL OF \$462,000,000 IS NEEDED TO CONSTRUCT THE FACILITIES THAT HAVE BEEN INCLUDED ON THE NAVAJO NATION NEEDS LIST. THE LIST IS NOT ALL INCLUSIVE;

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HOWEVER, IT DOES PROVIDE THE COMMITTEE WITH AN UNDERSTANDING OF THE EXTENT OF OUR IMMEDIATE INFRA-STRUCTURE NEEDS.

BEFORE MY PRESENTATION OF THE INFRA-STRUCTURE NEEDS OF THE NAVAJO NATION, I WISH TO MAKE A COMMENT CONCERNING THE APPARENT EXCLUSION OF INDIAN TRIBES AS PARTICIPANTS IN THE BILL. I RECOMMEND THAT SECTION 103(7) OF THE BILL BE AMENDED TO INCLUDE INDIAN TRIBES AS ELIGIBLE PARTICIPANTS IN THE FUNDING TO BE PROVIDED BY THE SENATE BILL 532.

THE INCLUSION OF INDIAN TRIBES WITHIN THE PROVISIONS OF THE BILL IS, I SUBMIT, FULLY CONSISTENT WITH PRESIDENT REAGAN'S NEW INDIAN POLICY. ON JANUARY 24, 1983, PRESIDENT REAGAN ISSUED A MAJOR POLICY STATEMENT IN WHICH HE INDICATED THAT HIS ADMINISTRATION WOULD DEAL WITH INDIAN NATIONS ON A "GOVERNMENT-TO-GOVERNMENT" BASIS. THE PRESIDENT STATED THAT HIS ADMINISTRATION WOULD INITIATE THE ACTION NECESSARY TO INCLUDE INDIAN TRIBES IN THE VARIOUS BLOCK GRANT PROGRAMS AVAILABLE TO STATE AND LOCAL GOVERNMENTS. HE ALSO INDICATED THAT INDIAN TRIBES WOULD BE ALLOWED TO PARTICIPATE IN DIRECT FUNDING OF TRIBAL PROJECTS. IT IS WITH THE PRESIDENT'S POLICY STATEMENT IN MIND THAT I REQUEST TRIBAL INCLUSION IN SENATE BILL 532.

ONE OF THE MORE IMPORTANT ITEMS LISTED IN THE ATTACHMENT INCLUDES \$20,800,000 FOR THE DEVELOPMENT OF COMMERCIAL CENTERS

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THROUGHOUT THE NAVAJO NATION. AS YOU ARE AWARE, MOST NAVAJO PEOPLE ARE REQUIRED TO TRAVEL TO OFF-RESERVATION COMMUNITIES IN ORDER TO SHOP FOR CONSUMER GOODS. THE REASON FOR THIS IS THAT THERE ARE FEW SHOPPING CENTERS ON THE NAVAJO RESERVATION THAT OFFER NAVAJO CONSUMERS THE VARIETY OF GOODS AND SERVICES THAT ARE AVAILABLE IN THE SO-CALLED OFF-RESERVATION "BORDER TOWNS". WITH THE EXODUS OF PEOPLE AND MONEY OFF THE RESERVATION, IT IS EXTREMELY DIFFICULT FOR THE NAVAJO SMALL BUSINESS SECTOR TO DEVELOP. THE REQUESTED FUNDS WOULD ENABLE THE NAVAJO NATION TO CONTINUE WITH ITS "GROWTH CENTER" DEVELOPMENT STRATEGY. THE DEVELOPMENT OF SHOPPING CENTERS WOULD ALSO PROVIDE THE NAVAJO SMALL BUSINESS SECTOR WITH THE OPPORTUNITY TO COMPETE WITH OFF-RESERVATION BUSINESSES FOR THE FUNDS GENERATED FROM ON-RESERVATION SOURCES.

A PROPOSAL HAS BEEN RECENTLY SUBMITTED TO THE NAVAJO NATION FOR THE CONSTRUCTION OF THE NAVAJO SHORTLINE RAILROAD. THE PROPOSAL IS STRUCTURED AS A JOINT VENTURE BETWEEN THE CONSOLIDATED COAL COMPANY AND THE NAVAJO NATION TO TRANSPORT COAL FROM THE COAL FIELDS IN NORTHWESTERN NEW MEXICO TO THE MAIN SANTA FE LINE AT GALLUP, NEW MEXICO. THE PROPOSED RAILROAD WOULD BE USED PRIMARILY TO TRANSPORT COAL; HOWEVER, IT IS ANTICIPATED THAT THE RAILROAD WILL TRANSPORT NUMEROUS OTHER COMMODITIES FROM NORTHWESTERN NEW MEXICO TO OTHER PARTS OF THE UNITED STATES. THE RAILROAD, IF DEVELOPED, WOULD PROVIDE

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EMPLOYMENT TO APPROXIMATELY 500 INDIVIDUALS AND WOULD GREATLY BENEFIT THE NON-INDIAN COMMUNITIES IN NORTHWESTERN NEW MEXICO BY PROVIDING A MEANS OF TRANSPORTATION FOR THE GOODS PRODUCED IN THAT PORTION OF THE STATE. IT IS ANTICIPATED THAT THE NAVAJO NATION'S SHARE FOR THE CONSTRUCTION COST OF THE RAILROAD WILL APPROXIMATE \$90,000,000. I WISH TO POINT OUT TO THE COMMITTEE THAT THE CONSTRUCTION OF THE RAILROAD IS EXACTLY THE TYPE OF PUBLIC INVESTMENT PROJECT THAT IS ANTICIPATED BY SENATE BILL 532. THAT IS, THE RAILROAD PROJECT WOULD PRODUCE INCOME AS A RESULT OF THE TRANSPORTATION OF GOODS TO SERVICE THE DEBT OR LOANS TO BE ISSUED PURSUANT TO TITLE II OF THE ACT TO FINANCE THE PROJECT.

THERE REMAINS ONE OTHER IMPORTANT PROJECT THAT I WISH TO MENTION, THE NAVAJO INDIAN IRRIGATION PROJECT. THE PROPOSED FISCAL YEAR 1984 BUDGET OF THE PRESIDENT FAILS TO INCLUDE ANY MONIES FOR THE PROJECT. I SUBMIT THAT FULL FUNDING OF THE PROJECT AT THE LEVEL ANTICIPATED BY THE NAVAJO NATION AT THE COMMENCEMENT OF THE PROJECT WILL NOT ONLY PRODUCE JOBS FOR NAVAJO PEOPLE, BUT WILL ALSO MAKE THE NAVAJO NATION AGRICULTURALLY SELF-SUFFICIENT. IT IS ESTIMATED THAT THE PROJECT WILL PROVIDE A LIVELIHOOD FOR 6,500 NAVAJO FAMILIES AS FARM OPERATORS, CUSTOM LABORERS, AND RELATED SERVICE ACTIVITIES. OUR STAFF HAS ESTIMATED THAT \$6,000,000 IS NEEDED IN FISCAL YEAR 1984. THE NAVAJO INDIAN IRRIGATION PROJECT IS ALSO WITHIN THE SCOPE OF SENATE BILL 532 AS A PUBLIC INVESTMENT PROJECT.

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YOUR UNDERSTANDING AND ASSISTANCE TOWARD THE REALIZATION OF THE NEEDED CAPITAL IMPROVEMENT FUNDS WILL CERTAINLY BENEFIT ALL RESIDENTS OF THE NAVAJO INDIAN RESERVATION. IN ADDITION, ANY FUNDING RECEIVED WILL NOT ONLY BENEFIT NAVAJOS BUT WILL HAVE REGIONAL IMPACT, AND IN SOME CASES NATIONAL IMPACT. THE REGIONAL IMPACT WILL RESULT FROM INCREASED EMPLOYMENT AND INDUSTRIAL DEVELOPMENT WITHIN NORTHWESTERN NEW MEXICO. THE DEVELOPMENT OF OUR PHYSICAL AND HUMAN RESOURCES, AS ANTICIPATED BY THE BILL, WILL GREATLY ASSIST IN ALL OF OUR EFFORTS TO BE ECONOMICALLY SELF-SUFFICIENT.

I WISH TO THANK YOU, MEMBERS OF THE COMMITTEE, AND YOUR STAFF, FOR THE OPPORTUNITY YOU HAVE PROVIDED THE NAVAJO NATION IN PRESENTING OUR NEEDS TO YOU.

JOHN A. CHAPELA
SPECIAL COUNSEL
OFFICE OF THE CHAIRMAN
NAVAJO TRIBAL COUNCIL

ATTACHMENT

THE NAVAJO TRIBE INFRA-STRUCTURE NEEDS

PUBLIC FACILITIES:		79,600,000
CHAPTER HOUSES	6,600,000	
PRE-SCHOOLS	12,000,000	
OFFICE BUILDINGS	24,000,000	
IMPROVEMENTS	7,000,000	
SCHOOL CONSTRUCTION	30,000,000	
ECONOMIC DEVELOPMENT:		20,800,000
COMMERCIAL CENTERS	15,500,000	
IMPROVEMENTS	700,000	
INDUSTRIAL	4,600,000	
WATER & SEWER DEVELOPMENT:		36,328,000
NEW CONSTRUCTION	30,128,000	
MAINTENANCE	6,200,000	
TRANSPORTATION:		167,000,000
HIGHWAY (NEW CONSTRUCTION)	57,000,000	
MAINTENANCE & IMPROVEMENT	5,700,000	
STREETS/PARKING LOTS	5,000,000	
AIRPORTS	7,500,000	
RAILROADS	90,000,000	
TRANSIT SYSTEM	1,800,000	

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COMMUNICATIONS FACILITIES:		13,163,000
RADIO	1,663,000	
TELEVISION	11,500,000	
POWERLINE EXTENSIONS:		16,000,000
LAND:		64,180,000
FLOOD CONTROL, IRRIGATION, & CULTIVATION	52,000,000	
LANDFILLS/MAINTENANCE	2,180,000	
PLANNING/TECHNICAL ASSISTANCE - 10% OF COST:		60,000,000
SOLAR ENERGY:		5,000,000
	TOTAL:	462,000,000

JOBS BILL

Chairman DOMENICI. Let me talk about two things that you mentioned, which we will talk tomorrow about, that I think ought to be on the record. There has been discussion here from time to time by the non-Indian witnesses about the new jobs bill. I trust that you will look at the separate provision of that. There is a separate provision for the Indian people in the jobs bill. While most of the country is going to move away from the public service type job in the new Partnership in Jobs Act, a number of us felt that there was a need for some transition because of the absence of private sector potential, at least immediate, so there is a set-aside of significant amount in that bill. I hope you will look at it, and we will do our best in appropriating to see that it is funded also, and that would be a direct funding for the similar purposes to the public service jobs that were in existence before.

HOUSING

Second, with reference to housing, there is no more difficult problem than it, and no more serious need than housing. We all acknowledge—and most Indian leaders who have looked at housing acknowledge—that we have a very convoluted and complex program. It takes forever to get anything built. We are in the process of reauthorizing, and we will be in touch with you and others and the Indian housing authorities that are in existence to have their views shared with us, but basically, there will be an effort to

streamline the various agency and departmental participations that have been required in the past, which frequently did not mesh, and consequently, you had housing funding, but you did not have housing for a sewer facility or for road development, and so they did not come together at the same time, and we had huge lapse of time and exorbitant cost increases resulting.

The new bill is in the formative stage. We passed it in the Senate last year, and we will try again in the next couple of months. So we will be in touch and try to address that with you.

Now, let's proceed with Tom Atcitty. We appreciate your attendance, and thank you for coming.

STATEMENT OF HON. THOMAS E. ATCITTY, NEW MEXICO STATE REPRESENTATIVE

Mr. ATCITTY. Thank you, Senator. We appreciate your bringing your office out to New Mexico. It is pretty expensive coming out to Washington to testify before your committee.

COOPERATION BETWEEN LEVELS OF GOVERNMENT

I do want to reiterate—I think it was probably an understatement that the northwestern quadrant of the State is in bad need of infrastructure. I think indeed, what has just been stated here by Mr. Chapela does bring that out. I would like to state here that in addition to your bringing your committee or your office out here that this is, I think, certainly a gesture of cooperation. I see it in that vein, and I hope that we can see more and better cooperation between the State government, the Federal Government, the county government, and the Navajo tribal government, so that we can begin to address more profoundly the needs that daily confront us, rather than approaching everything on a questionable or a confrontational or an adversarial basis. We need to bring ourselves together such as we are today, and I certainly appreciate it. I introduced a memorial last year which I refer to as my "peacepipe memorial" in the State legislature, which attempted to review the interrelationship between the Indian communities and the non-Indian communities and see how we can better get along together. We have to accept the fact that, whether we like it or not, we are going to be here a long time, living together and putting up with one another. We might as well start addressing those common areas of concern together and jointly and try to resolve them.

NOT IN OPPOSITION TO RAILROAD BILL

With that, I would like to just point out that I certainly was not in any way in opposition to the railroad bill which was much discussed in the New Mexico Legislature, especially in the dying minutes of the session. I did suggest a possible amendment, which would protect the landowners, and I understand that part of those concerns are in litigation, and it is to avoid those kinds of things and unnecessary court costs to the company and to individuals.

INDIANS BEING RAILROADED

We have seen—in fact, we have lived with it for hundreds of years in this country—pardon the expression, our Indians being railroaded into everything that has come about. I felt that we needed to bring those people into consideration. I did talk with a non-Indian the other day, and I said I would have done the same thing if he had a problem or a concern with respect to the railroad right-of-way, and certainly, I think there was additional concern, which was also brought out by Mr. Chapela, and that is, the Navajo has been exploring the possibility of a railroad from Gallup, and it appeared to me that this might be a double expenditure for this area of the State, and perhaps more cooperatively working together and jointly discussing how better transportation could facilitate the needs of this area of the State. So this was another reason that I think that we need to further explore, rather than rushing into it. And I certainly commend and respect Senator Morgan for his effort to try to bring such transportation to this community. I think that whichever right-of-way prevails, that we ought to all get behind him, because it will serve the same communities being discussed today. Perhaps those areas of coal extraction sites could also be served by the Navajo mine.

I also wanted to mention that in the previous discussion, panels mentioned New Mexico water, allocations made to New Mexico. I wondered whether this included the entire State of New Mexico, or did it separate the Indian and non-Indian communities. I think we need to look at the whole State's needs and whether it includes portions of Navajo communities or other tribal communities. I think we need to jointly work toward strengthening the allocation for this State, and I do not know whether those statements were made in consideration of the Indian population in the State.

UNLAWFUL TO PROVIDE TAX FUNDS INTO RESERVATIONS

Certainly, I would be happy to be included in the State's water allocation. I think that, too often, we have tried to avoid providing for the Indian communities, and I have been confronted with that in the State legislature. I discovered that we have a curtain around the Navajo Reservation, and to my surprise, it was a New Mexico constitutional curtain. It makes it very difficult, I understand—it is against the Constitution to provide certain tax funds into the reservation, and it is an infringement on tribal sovereignty. These kinds of words have been thrown back at me as I introduce various bills to provide assistance to the Navajo communities. On the other hand, we find that the Four Corners plant located on the reservation, and other severance taxes have been taken from the reservation, and I just wondered what happened to that concern about infringement on tribal sovereignty when taxes were collected on another land of different sovereignty. I think those things need to be questioned, and this is the reason that I opened by saying that I am glad to have been a part of this panel, which I think is an effort to work together and to cooperate, and I think once we recognize that there are various problems that confront our communities, that we can work together and try to iron those things out.

Lastly, just in the way of recommendation, I think maybe this would be a forerunner of further communication and further development of dialog between the various communities in the State, and I think it would be healthy for all the groups, whether they be Indian or Chicano or non-Indians, that we need to work together for the common good of the State. If we continue to stand divided and work against one another, we weaken our State, and especially in this sector of the State population.

With that, Senator, I appreciate your taking the time to come out and share this brief dialog with us.

Chairman DOMENICI. Thank you very much, Representative Atchitty.

Now, we have two representatives of the Bureau, Edward McCade, agency supervisor from Shiprock, and Larry Holman from the BIA in Crownpoint. Why don't we proceed in the order that the names were called, if that is all right.

Thank you very much for coming.

Mr. McCABE. Thank you, Senator.

STATEMENT OF EDWARD McCABE, AGENCY SUPERVISOR, SHIPROCK, N. MEX.

Mr. McCABE. I am pleased to appear before you today to take part in the discussion on the Navajo Nation infrastructure panel.

First, Senator, we consider you to be a true friend of the Navajo people. Your continuing efforts in behalf of Navajo interests are appreciated not only by the individuals here today, but by people throughout the reservation, whether they live in New Mexico, Arizona, or Utah.

HIGHWAY BILL A STEP FORWARD

The so-called Domenici bill for the improvement and construction of three roads in the New Mexico portion of the reservation—U.S. 66, State Highway 44, and State Highway 371—is a tremendous step forward for the Navajo Nation and northwest New Mexico. U.S. 66 has been widened almost all the way from Gallup to Shiprock, and two contracts which have been let on State Highway 371 will complete this road from Crownpoint north to Farmington. This will open a portion of the reservation that has been virtually inaccessible to those outside the area. State Highway 44 borders the reservation to the east, and many Navajo people daily use this highway.

The Bureau of Indian Affairs will receive approximately \$100 million this year as a result of the passage of the Highway Improvement Act of 1982. Navajo area's share will be about \$16 million. This, together with the normal budget request of \$11 million, will provide \$27 million this year for new road construction. These additional road moneys will enable us to undertake road projects throughout the reservation. Over the next 4 years, the Bureau is expected to receive some \$375 million in additional roads moneys. This will enable us to meet a basic infrastructure need on reservations and will also help with the pressing problem of unemployment. Road construction will generate about 5,000 jobs for Indians in 1983 and 1984.

NO HIGHWAY FUNDS WILL LAPSE

To answer your question before the presentation was begun, I would like to assure the Senator that roads priorities have been programed under each of the Navajo agencies, and none of the moneys will lapse in any year.

UNEMPLOYMENT

Unemployment is the major problem on the reservation, as it is on Indian reservations throughout the country. According to the latest statistics on Navajo, it is about 58 percent. We have a labor force of those 16 years and older of 84,000, less employed of approximately 35,000, leaving those unemployed, 49,000 people. When one considers that this is about six times the national unemployment figure, which in itself is very excessive, one realizes the magnitude of this problem. Federal budget cutbacks and reduction or elimination of Federal programs such as CETA and EDA have contributed to the problem.

Compounding the problem is the fact that many Indian people lack basic jobs skills to compete with off-reservation labor market. A good example of this can be found right here in this area. When the Fairchild semiconductor plant closed at Shiprock in 1974, it threw 900 people out of work. Fairchild was by far the largest private sector employer on the reservation. The void that Fairchild left has not been filled, and if we could find an industry to replace Fairchild, to move into that plant in the Shiprock industrial park, it would contribute enormously to making Shiprock a better place to live.

Much of the employment in this area is in power-related industries—the Arizona Public Service and San Juan electrical generating plants and the Utah International Coal Mine. But Navajo people, many of whom are unskilled, find it difficult competing for jobs with outsiders at these power-related industries. There are many skilled and semiskilled people on the reservation presently without jobs. I am speaking of such skilled trades as carpenters, electricians, plumbers, and welders. The BIA's push to develop reservation economies, which is reflected in legislation presently before the Congress, could put many of these people to work. Certainly, we have got to do a better job in the future than we have done in the past. We have got to have success in Indian country.

I understand that the jobs bill presently in Congress contains a provision for \$30 million for Indian housing, including 1,600 housing units to be renovated and 300 new houses to be built.

The Conservation Corps bill to create as many as 100,000 jobs includes a 5-percent set-aside of funds for Indian tribes. This bill, I understand, has passed the House and now goes to the Senate, and we would urge the Senator to support it.

It is such legislation that gives us an optimistic view of the future. Recently enacted legislation that enables tribes to enter into joint ventures with energy companies for the development of their natural resources will aid the Navajo Tribe in proper development of its resources.

SANITARY FACILITIES

Funds under Public Law 86-121 which provide sanitary facilities on Indian reservations has declined drastically on the Navajo Reservation for the past few years. In 1980 and 1981 fiscal years, for example, Indian Health Services received a total of \$10.9 million for each of these years. In 1982, this figure declined to \$6.9 million, and in 1983, funding was further cut to \$2.7 million. Originally, 86-121 fundings were designed to provide services to existing homes which did not have water and sewer; 1977 was the last time money was received to provide these types of services. Money received since that time has been to serve new HUD housing only. As you can see, there is a tremendous need to serve existing housing. We would appreciate your help in restoring funding for this program.

NAVAJO INDIAN IRRIGATION PROJECT

We seek your continued support in full development of the Navajo Indian irrigation project. The Federal Government has underfunded the obligation that it undertook. At the present time, the Federal Government has invested over \$220 million together with tribal funds in excess of \$30 million, to bring to partial fruition the largest wholly owned tribal economic development in this country. Five 10,000-acre blocks have been completed, and 47,000 acres of crops are in production, but no funds were forthcoming for additional construction this year, and none will be forthcoming in 1984 unless a supplemental appropriation is made by Congress.

In connection with this project, the city of Farmington has made application to the Federal Energy Regulatory Commission to construct a hydroelectric generating plant at Navajo Dam to produce electricity for the city of Farmington. The Navajo Tribe and the Bureau strongly oppose this application because it was always considered that the powerplant at Navajo Dam would be a part of the irrigation project. The power produced would save the project \$1 million per year based on today's power costs.

NAVAJO RAILROAD

Two railroads are proposed in the New Mexico portion of the reservation, both for purposes of hauling coal to the Santa Fe main line. One would run from Gallup north to the San Juan River east of Shiprock to transport coal from Consolidation Coal Co.'s coal lease in the Burnham-Bisti area. The other is the so-called Star Lake Railroad, to haul coal from Star Lake to the Santa Fe line at Prewitt.

To indicate the need for a railroad, the Bureau has entered into a haul contract with Consolidated Coal to increase to 50 loads a day on Navajo Route 5 to Highway 666 on to Gallup. A proposed water line from Navajo Dam to Gallup which would provide Gallup with 7,000 acre-feet of water annually and provide water for Navajo communities along the way, seems to be on hold at the present time since the new tribal administration has come in, and the tribal water commission is being reorganized. Vice-chairman Edward T. Begay has been in liaison with the city of Gallup on this matter.

Chairman DOMENICI. Mr. McCabe, I am going to have to ask you to summarize. We have 10 minutes left, and three more speakers at this point.

Mr. McCABE. Mr. Chairman, the first thing we need to know about this bill is whether it would be applicable to Indian tribes. Funding from the State infrastructure bank for Indian projects would require further study of the bill.

URANIUM TAILINGS HAZARD

One last comment, sir, on the uranium tailings sites at various communities on the reservation—we have one at Shiprock, Tuba City, Monument Valley, and Mexican Hat, Utah. These tailings create an environmental health hazard. We ask you to review the legislation to determine the most practical means to eliminate these hazards. We are concerned about Shiprock locally, because it prevents land use planning and the potential economic development of our community.

With that, Senator, I appreciate the opportunity to appear before you today.

Chairman DOMENICI. We will make your entire statement a part of the record.

Statement of Edward McCabe, Jr.
Superintendent, Shiprock Agency, Navajo Area
Bureau of Indian Affairs
Before the Senate Budget Committee
on March 28, 1983
Farmington, New Mexico

I am pleased to appear before you today to take part in the discussion on Navajo Nation infrastructure panel.

First, Senator Domenici, we consider you to be a true friend of the Navajo people. Your continuing efforts in behalf of Navajo interests are appreciated not only by the individuals here today but by people throughout the reservation, whether they live in New Mexico, Arizona or Utah.

The so-called "Domenici Bill" for the improvement and construction of three roads in the New Mexico portion of the reservation -- U.S. 666, SH 44, and SH 371 -- is a tremendous step forward for the Navajo Nation and northwest New Mexico. U.S. 666 has been widened almost all the way from Gallup to Shiprock and two contracts which have been let on SH 371 will complete this road from Crownpoint north to Farmington. This will open a portion of the reservation that has been virtually inaccessible to those outside the area. SH 44 borders the reservation to the east and many Navajo people daily use this highway.

The Bureau of Indian Affairs will receive approximately \$100 million this year as a result of passage of the Highway Improvement Act of 1982, which includes a 5 cent a gallon tax on gasoline. Navajo Area's share will be about \$16 million. This, together with the normal budget request of \$11 million, will provide \$27 million this year for new road construction. These additional roads monies will enable us to undertake road projects throughout the reservation. Over the next four years, the Bureau is expected to receive some \$375 million in additional roads monies. This will enable us to meet a basic infrastructure need on reservations and will also help with the pressing problem of unemployment. Road construction will generate about 5,000 jobs for Indians in 1983 and 1984.

Unemployment is the major problem on this reservation as it is on Indian reservations throughout the country. According to the latest statistics, on Navajo, it is about 58 percent (Labor Force, 16 years and over, 84,093 less employed 34,894, and unemployed 49,199) of the available work force. When one considers that this is about six times the national unemployment figure, which in itself is very excessive, one realizes the magnitude of this problem. Federal budget cutbacks and reduction or elimination of Federal programs such as CETA and EDA have contributed to the problem. Compounding the problem is the fact that many Indian people lack basic jobs skills to compete with off-reservation labor market. A good example of this can be found right here in this area. When the Fairchild Semi-conductor Plant closed at Shiprock in 1974 it threw 900 people out of work. Fairchild was by far the largest employer on the reservation. The void that Fairchild left has not been filled and Shiprock, largest community on the reservation, has become an unhappy, restive community. If we could find an industry to replace Fairchild to move into that plant in the Shiprock industrial park, it would contribute enormously to making Shiprock a better place to live.

Much of the employment in this area is in power-related industries--the Arizona Public Service and San Juan electrical generating plants and the Utah International Coal Mine. But Navajo people, many of whom are unskilled, find it difficult competing for jobs with outsiders at these power-related industries. There are many skilled and semi-skilled people on the reservation presently without jobs. I'm speaking of such skilled trades as carpenters, electricians, plumbers, welders. The BIA's push to develop reservation economies, which is reflected in legislation presently before Congress, could put many of these people to work. Certainly, we've got to do better in the future than we've done in the past. We've got to have success in Indian country. I understand that the jobs bill presently in Congress contains a provision for \$30 million for Indian housing, including 1,600 housing units to be renovated and 300 new houses to be built. The Conservation Corps bill to create as many as

100,000 jobs includes a 5 percent set-aside of funds for Indian tribes. This bill, I understand, has passed the House and now goes to the Senate.

It is such legislation that gives us an optimistic view of the future. Recently enacted legislation that enables tribes to enter into joint ventures with energy companies for the development of their natural resources will aid the Navajo Tribe in proper development of its resources.

Funds under Public Law 86-121 which provide sanitary facilities on Indian reservations has declined drastically on the Navajo reservation for the past few years. In 1980 and 1981 fiscal years, for example, Indian Health Services received a total of \$10.9 million for each of these years. In 1982, this figure declined to \$6.9 million and in 1983 funding was further cut to \$2.7 million. Originally, 86-121 funding were designed to provide services to existing homes which did not have water and sewer. 1977 was the last time money was received to provide these types of services. Money received since that time has been to serve new HUD housing only. As you can see, there is a tremendous need to serve existing housing. We would appreciate your help in restoring funding for this program.

We seek your continued support in full development of the Navajo Indian Irrigation Project. The federal government has underfunded the obligation that it undertook. At the present time, the federal government has invested over \$220,000,000 together with Tribal funds in excess of \$30,000,000 to bring to partial fruition the largest wholly-owned Tribal economic development in this country. Five 10,000 acre blocks have been completed and 47,000 acres of crops are in production, but no funds were forthcoming for additional construction this year and none will be forthcoming in 1984 unless a supplemental appropriation is made by Congress. The Office of Management and Budget has withdrawn its support of the project pending an improvement in the management system. It seems to me that improving management of the project is imperative. In my

view, the inordinate amount of income taken by the management firm precludes the farming operation of making a profit. This is a problem the Tribe must rectify if NAPI is to become a self-sustaining enterprise.

(In connection with the project, the City of Farmington has made application to the Federal Energy Regulatory Commission to construct a hydroelectric generating plant at Navajo Dam to produce electricity for the City of Farmington. The Navajo Tribe and the Bureau strongly oppose this application because it was always considered that the power plant at Navajo Dam would be a part of the irrigation project. The power produced would save the project \$1 million a year based on today's power costs.

Two railroads are proposed in the New Mexico portion of the reservation, both for purposes of hauling coal to the Santa Fe mainline. One would run from Gallup north to the San Juan River east of Shiprock to transport coal from Consolidation Coal Company's coal lease in the Burnham-Bisti area. The other is the so-called Star Lake Railroad from Star Lake to the Santa Fe line at Prewitt.

A proposed water line from Navajo Dam to Gallup, which would provide Gallup with 7,000 acre feet of water annually and provide water for Navajo communities along the way, seems to be on hold basis at the present time since a new tribal administration has come in and the tribal water commission is being reorganized. Vice Chairman, Edward T. Begay, has been in liaison with the City of Gallup on this matter.

(In conclusion, I would like to say that we have many challenges facing us in Indian Country. There are no easy answers and no miracles, and it is difficult to locate industry on the reservation due to the land status and the sovereign nature of tribal governments. However, we will continue to do the best we can and I am optimistic that we can accomplish a great deal.

Expenditures on Road Construction in the Navajo Area

State of New Mexico

FY-77 \$ 5,645,000.00

N34- Sanostee to US 666, 9.0 miles, paving, \$2,325,000
NIIP - Block 2, 42 miles surface - \$3,320,000

FY-78 \$ 7,097,000.00

Breadsprings, 8 miles, \$2,570,000
Block 3 - Grade & Drain, Surface, 27.2 miles, G&D, 39.2 miles
paving \$3,579,000
Block 4 - G&D, 10 miles, \$823,000
Ojo Amarillo Bridges - \$125,000

FY-79 \$ 5,148,000.00

NIIP, Block 4 - 26.2 miles, G&D and gravel, \$1,595,000
17I, 3 miles gravel, \$158,000
Block 4 - paving, 31 miles, \$1,800,000
Block 5 - G&D, 14 miles, \$725,000 gravel, 4 miles, \$315,000
Bridge on NIIP - 71 ft., \$175,000
N9 - Pueblo Pintado to McKinley County Line, 22.4 miles slurry
seal, \$380,000

FY-80 \$ 3,747,000.00

7046 NM 32 to Chi-Chil-Tah Chapter, 9.1 miles, G&D, \$2,000,000
Block 5 - 4 miles, G&D, \$140,000
14 miles, Gravel, \$64,000
14 miles, prime, \$85,000
Block 5 - 7.8 miles, G&D and gravel and prime, \$1,458,000

FY-81 \$ 5,200,000.00

7046, 9.1 miles paving, \$2,100,000
7046 & 7044, 7.1 miles, Chi-Chil-Tah Chapter to Jones Ranch
& Chi-Chil-Tah Spur, \$1,400,000
Whitewater Wash Bridge, \$150,000
N5 - Overlay, 12.2 miles, \$1,400,000
Block 4 - 8.3 miles- gravel & prime, \$150,000

FY-82 \$ 2,541,000.00

7046 & 7044, 7.1 miles paving, G&D, \$2,311,000
NIIP Pellet Mill, 1.6 miles, \$200,000
Housing Access Roads - Tohatchi, \$30,000

GRAND TOTAL. \$29,378,000.00

Chairman DOMENICI. The Shiprock tailing site is on a very fast track, and there should be some announcements regarding it very soon. The legislation is in good shape, and it is a question of getting the final regulations out and getting priority, three or four of them started. It is right, if not at the top of the list, second, but it is in the first group, so it ought to move with some dispatch.

NAVAJO IRRIGATION

The Navajo irrigation—let me just suggest we will do what we can to get the funding back on track. I think on this one, it is only fair to say that there was a genuine need seen on the part of the National Government to urge the Navajo Nation to get better management of that entity. I think that is evolving, and we are pleased with the last reports on its management and its handling of its own internal financing. The lack of money is not because we are not committed to getting it finished, but there was a natural hiatus with reference to some of the management aspects, and I think they are resolved.

Let me ask both you and Mr. Holman, I am on the road projects going to go ahead to the top of the BIA and to the chairman's office and ask that you share with me how the \$27 million are going to be spent. I am not doubting your statement that it will be, but I have heard that before with reference to spending money, only to find that for some reason, the Federal rules or somebody's rules end up with us unable to spend it, and I surely do not want to see that happen. With these gigantic needs, we ought not get hung up in redtape. We ought to get it out there, because we have plenty of needs yet to be filled.

Mr. Holman, would you like to contribute some testimony now?

STATEMENT OF DONALD BENALLY, TRIBAL COUNCILMAN, SAN JUAN COUNTY COMMISSION

Mr. BENALLY. I want to thank Senator Domenici and the Department of Transportation for holding this hearing today. As an elected representative of the Navajo people, I welcome any opportunity to express the needs of our people. We appreciate the fact that Senator Domenici has taken the time and effort to travel here and hear our concerns.

The Navajo people find themselves in a severe economic condition. The policies of the Reagan administration have hit us particularly hard. The promise of economic revitalization and recovery rings hollow with us because it is based almost exclusively on a healthy private sector. For areas of the United States which have previously enjoyed substantial private sector development, the President's policies may make sense. But for areas like the Navajo Reservation, Mr. Reagan's policies mean only hardship.

UNABLE TO BUILD PRIVATE SECTOR ECONOMY

We have been unable to build a private sector economy for a number of reasons. Lack of access to capital, lack of capacity and technical assistance and lack of infrastructure are among the more important factors contributing to the Navajo economic depression. We find that the State of New Mexico generates millions of dollars

in tax revenues from Navajo coal, oil, gas and electricity. Our own sovereign powers of taxation are constantly disputed in the courts, and we have no tax revenues. We find that our coal is burned to generate electricity for our off-reservation neighbors while our own people all too often are denied access to electricity.

We find that our tax dollars are used to provide highways and often public services off-reservation, while we are left literally wallowing in the mud and without adequate housing or sanitation systems. Even our Navajo veterans, those who have fought America's wars, cannot afford adequate housing.

Our water resources, the San Juan and Animas-La Plata Rivers, are being used by non-Navajos without adequate compensation. I would also like to mention that the present plan of Animas-La Plata River project, which allocates 7,600 acre-feet of water to the Shiprock community, is totally insufficient and an inadequate quantity for the community.

Our own Navajo Indian irrigation project appears to be in the process of having its federally promised powerplant taken away by non-Navajos.

ALL RESERVATION INFRASTRUCTURE IN DECLINE

We recognize that these are times of some hardship for many non-Navajos. We also recognize that some efforts are being made to meet our needs for such infrastructures as roads and highways. I respectfully suggest that the present and promised Federal funds for road construction are inadequate; \$25 million will be available for road construction on the reservation for each of the next 4 fiscal years. This amount could easily be doubled, and we would still lack the road system necessary for real development. Funding for virtually all of the infrastructure will apparently continue to decline. Sanitation, public facilities, electrical power, education, water systems, all are threatened or already severely cut.

TRIBAL INFRASTRUCTURE BANK

While we truly appreciate your efforts to assist us, I would be neglectful of my duties if I did not say that more must be done. Senate bill 532 appears to be a fine thing for the State of New Mexico, but it provides nothing to the Navajo Tribe. Provisions need to be made to allow us to participate fully in this new program. We would like to operate a tribal infrastructure bank. It is inappropriate to require us to seek funding from a State infrastructure bank. This is not in keeping with our government-to-government relationship with the United States. President Reagan has committed himself to a full recognition of our sovereignty. We ask that you do the same by amending Senate bill 532 to provide for tribal infrastructure banks.

I thank you, Senator, for this opportunity to present these comments, and again, I thank you on behalf of my constituents for taking the time and effort to hold these hearings here, so close to the Navajo Reservation.

Thank you.

Chairman DOMENICI. Thank you, Mr. Benally.

TESTIMONY OF
DONALD BENALLY
BEFORE THE SENATE BUDGET COMMITTEE
March 28, 1983
NEW MEXICO INFRASTRUCTURE HEARING
FARMINGTON, NEW MEXICO

My name is Donald Benally. I am a member of the San Juan County Commission and a Delegate of the Navajo Tribal Council from the Shiprock People's Chapter of the Navajo Nation.

I want to thank Senator Domenici for holding this hearing today. As an elected representative of the Navajo People, I welcome any opportunity to express the needs of our People. We appreciate the fact that Senator Domenici has taken the time and effort to travel here and hear our concerns.

The Navajo People find themselves in a severe economic condition. The policies of the Reagan Administration have hit us particularly hard. The promise of economic revitalization and recovery rings hollow with us because it is based almost exclusively on a healthy private sector. For areas of the United States which have previously enjoyed substantial private sector development, the President's policies may make sense. For areas like the Navajo Reservation, Mr. Reagan's policies mean only hardship.

We have been unable to build a private sector economy for a number of reasons. Lack of access to capital, lack of capacity and technical assistance and lack of infrastructure are among the more important factors contributing to the Navajo economic depression. We find that the State of New Mexico generates millions of dollars in tax revenues from Navajo Coal, Oil, Gas and Electricity. Our own sovereign powers of taxation are constantly disputed in the Courts and we have no tax revenues. We find that our coal is burned to generate electricity for our off-reservation neighbors while our own people all too often are denied access to electricity.

We find that our tax dollars are used to provide highways and often public services off-reservation, while we are left literally wallowing in the mud and without adequate housing or sanitation systems. Even our Navajo Veterans, those who have fought America's wars, cannot afford adequate housing.

Our water resource, in the San Juan and Animas La Plata Rivers are being used by non-Navajos without compensation. Our own Navajo Indian Irrigation Project appears to be in the process of having its federally promised power plant taken away by non-Navajos.

We recognize that these are times of some hardship for many non-Navajos. We also recognize that some efforts are being made to meet our needs for such infrastructures as roads and highways. I respectfully suggest that the present

and promised federal funds for road construction are inadequate. Twenty-five million dollars (\$25,000,000) will be available for road construction on the reservation for each of the next four fiscal years. This amount could easily be doubled and we would still lack the road system necessary for real development. Funding for virtually all of the infrastructure will apparently continue to decline. Sanitation, public facilities, electrical power, education, water systems, all are threatened or already severely cut.

While we truly appreciate your efforts to assist us, I would be neglectful of my duties, if I did not say that more must be done. Senate Bill 532 appears to be a fine thing for the State of New Mexico - but it provides nothing to the Navajo Tribe. Provisions need to be made to allow us to participate fully in this new program. We would like to operate a Tribal Infrastructure Bank. It is inappropriate to require us to seek funding from a State Infrastructure Bank. This is not in keeping with our government-to-government relationship with the United States. President Reagan has committed himself to a full recognition of our sovereignty, we ask that you do the same by amending Senate Bill 532 to provide for Tribal Infrastructure Banks.

Thank you for this opportunity to present these comments. And again I thank you on behalf of my constituents for taking the time and effort to hold these hearings here so close to the Navajo Reservation.

Chairman DOMENICI. We will be out to your Chapterhouse before too long, so next time around, we will try to get up there and hold a hearing right there with you as we have in the past.

Wilbert Begay, of the San Juan Chapterhouse. We are delighted to have you, Wilbert.

Mr. BEGAY. I thank you, Senator.

STATEMENT OF WILBERT BEGAY, SAN JUAN CHAPTERHOUSE

Mr. BEGAY. I think before I go on, I would like to say that the Navajo panel here does have a good cross-section of various segments of the reservation, so I am glad that we did have it in that respect.

I would like to first introduce myself. Of course, my name was mentioned, and I am with the recently certified Navajo chapter, which is the San Juan chapter. We do have 110 chapterhouses right now on the reservation, and probably in the future, more are expected, as likewise with the Council Delegates.

I did also serve in certain positions like with the State government, and as a tribal council delegate, and right now as the chapter secretary. But we do talk about certain development, which is very good in certain respects, but as the subsequent end of the development, the chapter usually ends up with all the problems. So this is one area I would like to bring out. Of course, when everything takes place—for example, when the railroad comes in—there will be continually problems, so it seems like on the Navajo Reservation that the chapter officers continue to live with these problems, and there is no end to resolving certain problems. For example, we are located right next to Utah International and the Arizona Public Service Co., and being right nextdoor to them and being neighbors, or vice versa, they being our neighbors, it seems like the local immediate area, the employment, as far as the percentage, is probably less than 10 percent of that local population.

So in certain ways, we talk about development—that is fine, yes. But the subsequent end, as I mentioned, is also frustrating. So we need to look at these problems—and I may sound like this is probably inhouse or internal problems within the Navajo Nation, but one thing I like to point out is that the off-reservation companies and corporations do develop these problems at the end, but we do live with them in that respect.

Also, certain interests and certain projects were mentioned, like certain railroads. We have our own interests, too. We want to develop a bridge. This seems very much at the grassroots end, but looking at it from the chapterhouse viewpoint, we do have our concerns. We need to have the Navajo N-36 Highway to be built. And we could go on and on, but again, at the very grassroots end, we do have our concerns, too.

Rather than to go on, I would like to be very brief, and I thank you very much for this opportunity to present certain matters.

CHAPTERHOUSES RECEIVE THE COMPLAINTS

Chairman DOMENICI. Thank you, Wilbert.

I understand the chapterhouse officers' problems. I guess the best similarity we have got in a non-Indian government is down at

the mayors' level. Everything goes along well, and the mayor gets all the complaints. No matter what is being done, there are always huge numbers of problems, and they get them all. The chapter-houses have, in one respect, little authority and jurisdiction, but yet it is a means of addressing problems, and obviously, aside from the internal problems of the nation, it will continue to be the focal point for everyone who has problems, and I know it is very difficult and I understand it.

Our last witness is Reynold Harrison, San Juan County Commission, As I understand it, you are on the road commission, which is an advisory group to the county commission.

Mr. HARRISON. Yes.

Chairman DOMENICI. We would be pleased to hear from you.

STATEMENT OF REYNOLD HARRISON, SAN JUAN COUNTY COMMISSIONER

Mr. HARRISON. Thank you, Senator Domenici.

That was basically what I was going to say, plus that I am also on the Shiprock Agency Road Committee and also the council of delegates from the Upper Fruitland chapter.

I am going to make my presentation as brief as possible. I had a written statement, but I have been correcting it so much that I figured I would just go ahead and read what I have.

Chairman DOMENICI. Why don't we do this. If it is almost corrected, why don't you finish what you have to do to correct it, and we will make it a part of the record, but you go ahead and give your oral statement, too.

Mr. HARRISON. OK, thank you.

TRANSPORTATION AND JURISDICTION PROBLEMS

My specific areas of concern relate to those of transportation and jurisdictional problems between the State, county, and tribal governments.

First of all, on S. 532, the findings within that bill could be readily addressed to the area of San Juan County, as well as the Navajo Reservation. The legal issues pertaining to this bill, I am going to leave up to our legal people.

As far as the obligations of the Federal Government, that is basically revolving around the treaty. The State and county are also obligated to provide services, but it is not the case, and if services and technical assistance are provided, it is minimal. Geographically, Upper Fruitland chapter is located adjacent to Farmington, and we feel and see the neglect.

CAN'T USE STATE FUNDS ON RESERVATION

To illustrate, the neighboring State of Utah was mandated on March 1, 1933 by an act of Congress to provide services to the Navajo Reservation within its jurisdiction from oil royalties collected by the State. Consequently, funding was available through UNDC for road construction and services. Our State and county have consistently ruled that State funds cannot be utilized on the Navajo Reservation. An example is the use of county funds for road construction and maintenance. I have testified before the

State highway commission, San Juan County Commission, to obtain assistance for road improvement of N-36, a proposed highway through the Upper Fruitland, Nenahnezad, and Shiprock chapters. If funded, this would benefit workers and businessmen from Farmington, Bloomfield, Aztec, and other chapters who work at the energy-producing industries. The primary question would be the settlement of the right-of-way and funding by a cooperative agreement between the State, county, BIA and the tribe. Procedures regulating such cooperative agreements would benefit all the people for transportation services which could also be worked into S. 532.

To substantiate my concerns, industrial development in the area is paying millions of dollars in taxes and royalties to Federal, State, and county through payroll and insurance tax, property tax, resource excise tax, gross receipts tax, compensating use tax, severance tax, conservation tax, and royalties.

I also have a listing of taxes paid by Utah International for 1981 and 1982, which shows the millions that are spent or paid to the State and the Federal Government, of which some is returned to the State.

Additional millions are paid by Navajos collected from sales tax. The counter argument that taxes are not generated from the Navajo Reservation is erroneous.

Another counter argument on transportation is that the BIA has total responsibility for construction and maintenance of reservation roads and services. Our community has been neglected while adjacent NAPI project prospers. For example, population, social and road problems have escalated from the NIIP project, but services have not. Millions of BIA dollars have been spent on roads and bridges on the NAPI lease area at the expense of the social needs of the Navajo people. This is just reason for infrastructure funding for public works when properly worked out.

An alternative recommendation is that the State and county should be more responsible to provide better services to areas that serve the Navajo people from which Federal, State, and county receive economic benefits and services, thereby, relieving BIA funds for areas wherein the people reside such as Upper Fruitland.

I certainly feel that your interest and fairness shows progress and should be reflected in the State and Federal Indian policies.

Thank you very much for this opportunity.

Chairman DOMENICI. Thank you very much, and your statement will be made a part of the record.



UPPER FRUITLAND CHAPTER

THE NAVAJO NATION

P. O. BOX 1257

FRUITLAND, NEW MEXICO 87416



March 28, 1983

SENATE BUDGET COMMITTEE HEARINGS, Farmington, New Mexico

Presentation by REYNOLD HARRISON, Navajo Tribal Council Delegate from Upper Fruitland Chapter; Memoer, San Juan County Road Commission; and, Shiprock Agency Road Committee; P.O. Box 95, Fruitland, NM 87416; 505-598-6818.

Senator Pete Domenici and Staff, members of the City and County government, Tribal Leaders and Guests.

I am honored to be here and I appreciate the opportunity to address the Honorable Senator from New Mexico to present my views on Senate Bill 532 (S.532) on behalf of my constituents. Specifically, my concerns relate to the area of transportation and jurisdictional problems between the State/County and the Navajo Tribal Government.

First, the findings as outlined in S.532 could be readily addressed to the area of San Juan County, part of which lies within the boundaries of the Navajo Nation. I do not have the resources to address the legal issues pertaining to whether this bill would benefit the Navajo Nation, as a sovereign nation. Further, contrary to the intent of S.532, the federal government is by Treaty obligated to provide services to the Navajo people.

The State of New Mexico and San Juan County is also obligated to provide services but is not the case, and if services and technical assistance is provided, it is minimal. Geographically, Upper Fruitland Chapter is located adjacent to Farmington, thus we feel and see the neglect.

To illustrate, the neighboring state of Utah was mandated on March 1, 1933 by an Act of Congress to provide services to the Navajo Reservation within its jurisdiction from oil royalties collected by the State. Consequently, funding was available through Utah Navajo Development Council (UNDC), a state department, for road construction.

The State of New Mexico and County of San Juan have consistently ruled that State funds cannot be utilized on the Navajo Reservation. An example is the use of State and County funds for road construction and maintenance on the Navajo Reservation. I have testified before the New Mexico State Highway Commission, San Juan County Commission, Bureau of Indian Affairs/Navajo Tribe Agency Road Committee to obtain assistance for road improvement of N-36, a proposed highway through the Upper Fruitland, Nenahnezad and Shiprock Chapters. This road would benefit workers and businessmen from Farmington, Bloomfield, Aztec and other Chapters who work at Navajo Mine or Arizona Public Service Co. and their subcontractors. The settlement of the right of way question and funding by a cooperative agreement between the State,

County, Bureau of Indian Affairs and the Navajo Tribe may solve this problem. Procedures regulating such cooperative agreements would benefit all the people for transportation services which could also be worked into S.532.

To substantiate my concerns, industry located within lease areas of the Upper Fruitland and Nenahnezad Chapters are paying millions of dollars in taxes and royalties to the federal , State and County through payroll and insurance tax, property tax, resource excise tax, gross receipts tax, compensating use tax, severance tax, conservation tax, and royalties; (see EXHIBIT 1 and 2 for 1981 and 1982-Utah International, Inc.). This does not include the additional millions that are paid by Navajos collected from sales tax. Similar taxes are collected from Arizona Public Service Co., Consolidation Coal Co., numerous oil and gas companies and N.A.P.I./N.I.I.P. etc., and their employees. The counter argument that taxes are not generated from the Navajo Reservation is erroneous.

Another counter argument on transportation is that the Bureau of Indian Affairs has the total responsibility for construction and maintenance of Reservation roads and services. Our community within Upper Fruitland Chapter has been neglected while adjacent N.A.P.I. project prospers.

For example, population, social and road problems have escalated from the N.I.I.P. project but services have not. Millions of B.I.A. dollars have been spent on roads and bridges on N.A.P.I. lease area at the expense of the people; (see EXHIBITS 3 to 9 covering B.I.A. road funds from 1975 to 1981).

An alternative recommendation is that the State and County should be responsible for service to areas that serve the Navajo people from which they receive economic benefits and services. Such as the lease and excess areas involving N.A.P.I./N.I.I.P., Consolidation Coal Co., Utah International, Inc., oil and gas fields. Thereby, relieving B.I.A. transportation/road and other service funds for areas wherein the people reside such as Upper Fruitland.

The current State Government under Governor Toney Anaya has proclaimed to work with Indian Tribes. I hope that President Reagan will direct its policies to benefit the Navajo and County people. I certainly hope that the hostile feelings be severed and the negotiations commence for the benefit of all. I certainly feel that your interest in fairness shows progress and should be reflected in the Administration's Federal Indian Policy.

Thank you for the opportunity to tell you my concerns and recommendations.

**** *

1981
UTAH INTERNATIONAL INC.
New Mexico Coal Operations

In 1981, Utah International's two coal mines, the San Juan Mine and the Navajo Mine, produced 11,146,078 tons of sub-bituminous coal, 60% of New Mexico's total production, and delivered it to the two adjacent electric power plant complexes.

Utah International employed 791 persons with a payroll of \$22,232,621. The work force is 78% Navajo Indian. These employees totaled 2% of San Juan County's employment. Equipment, material and supplies costing \$59,147,704 were purchased, primarily locally, in 1981.

State taxes paid directly to the state in 1981 included:

Payroll tax and insurance	\$6,143,773
Gross receipts	5,176,530
Severance	8,558,947
Resource Excise	973,068
Conservation	243,833
Property	650,372
Royalty (50% of federal royalty)	2,489,510

In addition, state income tax and franchise tax, tribal and federal taxes were paid. For further information, please contact

UTAH INTERNATIONAL INC.

P.O. Box 155

Fruitland, New Mexico 87416

Phone: (505) 598-5861 Navajo Mine

(505) 598-5871 San Juan Mine



EXHIBIT 1

UTAH INTERNATIONAL INC.
1982
PAYROLL, TAXES, MATERIALS DATA

	<u>Navajo</u>	<u>San Juan Coal Company</u>
Payroll Taxes { Social Security-Co.	\$1,491,821.55	\$ 61,105.15
State Unemployment	62,420.61	2,694.51
Federal Unemployment	34,030.51	1,483.23
Property Tax	412,464.90	372,539.01
Resource Excise Tax	554,385.60	601,243.92
Gross Receipts Tax	2,858,317.78	3,361,413.21
Compensating Use	359,553.16	45,406.87
Severance Tax	6,206,263.14	4,062,517.41
Conservation Tax	132,870.97	144,282.05
(U.S.) Reclamation Act Levy	2,492,503.30	1,591,567.40
(U.S.) Blacklung Tax	3,103,199.72	2,351,755.31
Royalty	1,075,116.00	10,388,123.00
Gross Payroll (N & S.J.C.C.)	26,634,586.00	
Total Employees	792	
Materials and Supplies	52,000,000	35,000,000

EXHIBIT 2

FISCAL YEAR 1975 ROAD PROJECTS

PROJECT	MILEAGE	COST
N5(1)264, N5(2)1 US 666-Burnham	12.292 G D P	\$ 2,419,109.11
.9(13)264 Whitehorse to Pueblo Pintado	15.474 G D P	\$ 3,535,581.70
N9(14)264 Pueblo Pintado-County Line	22.4 G D P	\$ 6,429,588.32
N12(13-2)(19-2)5 (1-2)2 Whiskey Creek N. Repairs (Force Acc.)	2.078 G D P	\$ 738,253.30
N13(5) Red Rock Bridge	101.5' B	\$ 143,895.83
N20(1)264 N. Coppermine to Page (FHWA)	14.290 G D P	\$ 2,469,084.43
N27(1)(5) Canado-Nazlini	12.768 G D P B	\$ 3,374,246.78
N32(2-1)2 E. of Crystal-Washington Pass Repair	6.583 G D	\$ 376,611.40
N59(3), N8066(1), N59G(2)-Many Farms to Rough Rock & Spur	16.240 G D P	\$ 4,622,810.14
N103(8)264 Shiprock Lanes	4.4657 G D P	\$ 592,294.36
.43003(2)264 N3003(3)1 Block IV - Gallegos Bridge	5.630 G D B	\$ 1,557,000.00
N4000 Block I	22.367 P	\$ 1,508,648.10
Various Housing Access Roads		\$ 191,290.24
		<u>\$27,958,413.71</u>

EXHIBIT 2

FISCAL YEAR 1976 ROAD PROJECTS

PROJECT	MILEAGE	COST
N12 Whiskey Creek-Lukachukai Overlay	24.436 P	\$ 1,600,096.33
N13(3)2 US 666 to Red Valley	22.717 G D P	\$ 5,656,255.07
N15 Leupp Bridge	562'	\$ 300,000.00
N15(4)264 Lower Greasewood to Bitahochee	12.8 G D P	\$ 3,696,230.30
N22A(1)264 Shonto Spur	4.483 G D P	\$ 1,314,505.90
N25, N25A Cottonwood Overlay, South Side	10.3 P	\$ 661,540.95
N29 Route 4 to Blue Gap	7.625 G D P	\$ 1,881,480.79
N34(1) US 666 to Sanostee	9.020 G D P	\$ 2,716,063.55
N56(4) Canoncito Overlay	7.811 P	\$ 1,345,570.08
N63(2)1 Red Valley Wash Bridge	373'	\$ 536,000.00
.01(4) Tuba City Streets	3.9 G D P	\$ 990,000.00
NIIP 3003(2-1)(1-2)4	5.6 P	\$ 484,000.00
NIIP 4000	7.0 P	\$ 479,000.00
Various Housing Access Roads	0.5 G D P	\$ 175,000.00
		<u>\$21,835,742.97</u>

EXHIBIT 4

FISCAL YEAR 1977 ROAD PROJECTS

PROJECT	MILEAGE	COST
N7(4)1,2&4 Fort Defiance to Sawmill	15.434 G D P	\$ 6,698,757.11
..15(7A)2 and (7A-1)4 Leupp Approaches	0.8405 G D P B	\$ 649,367.69
N17B(1) Round Rock Bridge	210 Feet G D B	\$ 284,059.78
N32(3A-1)(3B-1)4 Washington Pass	11.056 P	\$ 2,149,075.44
N59(5A), (5B)2&4 Church Rock to Chilchimbeto	25.519 G D P	\$ 7,381,418.53
N60 Dilcon Overlay	14.341 P	\$ 746,069.24
N128(1)2&4 Shonto Housing Access Road	0.5 G D P	\$ 116,300.00
NIIP Block II	42.0 P	\$ 1,945,000.00
NIIP Block III	12.0 G D	\$ 808,000.00
NIIP 3003(5)	3.578 G D P	\$ 457,745.96
Various Housing Access Roads	2.5 G D P	\$ 451,000.00
		<u>\$21,686,793.75</u>

EXHIBIT 5

FISCAL YEAR 1978 ROAD PROJECTS

PROJECT	MILEAGE	COST
N25(4)4 Cottonwood School Bus Route-Black Mountain Loop	15.251 P	\$ 1,735,704.49
N35(5)US 160 Red Mesa	2.814 G D P	\$ 1,187,486.35
N74(1), N7062(1) SR 32 Breadsprings	7.474 G D P	\$ 2,997,006.47
NIIP Block III	27.2	\$ 1,390,000.00
NIIP Block III	39.2 P	\$ 2,165,181.03
NIIP Block III	43.0 G D P	\$ 5,140,000.00
NIIP Block IV	10.0 G D	\$ 823,000.00
Various Housing Access Road	0.2 G D P	\$ 62,000.00
		<u>\$15,500,378.34</u>

EXHIBIT 6

FISCAL YEAR 1979 ROAD PROJECTS

PROJECT	MILEAGE	COST
N12(24)264 Mexican Water-Bluff	7.994 P	\$3,236,896.21
N12(27)264 Mexican Water-Bluff	8.220 G D P	\$2,689,047.14
N15(9) Leupp-Birdsprings	7.576 G D P B	\$2,915,571.84
N27(3), N27(1-1)264 Navlani South	5.1 G D P	\$3,641,541.89
N110(1) Black Creek Bridge	210'	\$ 588,217.92
N251(1)264 Tselani South	6.134 P	\$1,111,357.97
NIIP 17-I	9.659 G Pr	\$ 259,344.60
NIIP Block IV	21.418 G D P	\$1,640,064.20
NIIP Block V	18.086 G D	\$ 150,373.51
NIIP Block V	23.486 P	\$1,706,152.10
Various Housing Access Roads	0.5 G D P	\$ 103,000.00
		<u>\$18,041,567.38</u>

EXHIBIT 7

FISCAL YEAR 1980 ROAD PROJECTS

PROJECT	MILEAGE	COST
N12(22)(23)2&4 Mexican Water-Bluff	9.5 G D P	\$ 3,515,247.39
12(25) Window Rock-Ft. Defiance Four Lanes	2.8455 G D P	\$ 3,672,572.89
N41 Bridges	444 Feet	\$ 1,100,000.00
N59(4)2 Rough Rock to Chilchinbeto	7.391 G D	\$ 2,799,600.07
N7046 SR 32 to Chichiltah Chapter House	9.1 G D	\$ 2,000,000.00
NIIP Block V	1.3 G D	\$ 150,000.00
NIIP Block V	4.0 G G D Pr	\$ 354,000.00
NIIP Block V	5.0 G D	\$ 290,000.00
NIIP Block V	7.8 G D G Pr	\$ 1,458,000.00
		<u>\$15,339,420.35</u>

EXHIBIT 2

FISCAL YEAR 1981 ROAD PROJECTS

PROJECT	MILEAGE	COST
N5 Burnham Overlay	12.1695 P	\$ 1,044,497.35
N15(2-2)4 SR 264-Sunrise T. P.	11.035 P	\$ 738,194.87
N59(4-1)4 Rough Rock-Chilchinbeto	7.391 P	\$ 2,020,385.50
N7046(1-1)4 SR 32-Chichiltah Chapter House	9.107 P	\$ 1,195,580.35
NIIP Block IV	300 Feet	\$ 950,000.00
NIIP Block IV	3.0 G Pr	\$ 540.00
NIIP Block IV	5.3 G Pr	\$ 96,000.00
		<u>\$ 6,045,198.07</u>

EXHIBIT 2

Chairman DOMENICI. Donald, did you have something?

Mr. BENALLY. Yes, Senator. For the record, I am also a member of the San Juan County Commission, so I am wearing two hats in this hearing.

Chairman DOMENICI. Yes. I had that down, and I forgot to mention it as I introduced you, and I apologize.

If there is nothing further, I want to thank everyone for their attendance. I learned a great deal, and I was pleased to have the administrator here. I am sure that he learned a lot about New Mexico and the fact that we have much different problems than they have in many States, and certainly, in the State from whence he came, that this is much different. We appreciate your attendance, and we will be working with you as we develop the road programs up here and other things that you have jurisdiction over.

If you would care to make a couple of comments, I would be glad to accommodate, and then we will recess.

Mr. BARNHART. I know you have a public waiting. I came down to observe and listen and learn, and I have done that, and I appreciate your inviting me.

Chairman DOMENICI. Thank you very much.

We stand in recess.

[Whereupon, at 1 p.m., the committee was adjourned.]

NEW MEXICO INFRASTRUCTURE

THURSDAY, MARCH 31, 1983

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Roswell, N. Mex.

The committee met, pursuant to notice, at 1:25 p.m., in the VPV Auditorium, New Mexico Military Institute, Roswell, N. Mex., Hon. Pete V. Domenici, chairman, presiding.

Present: Senator Domenici.

Also present: Congressman Joe Skeen.

Staff present: William Hoagland, senior analyst for agriculture and physical resources, and Linda Findlay, legislative assistant to Senator Domenici.

[Pledge of Allegiance.]

Chairman DOMENICI. Could we have order, please?

First, I want to thank General Childers, the institute and the cadets for the posting of the colors. General, we want to thank you for the use of your facilities. Your cooperation has been excellent, and we are most grateful to you. Thank you very much.

General CHILDERS. Thank you, Senator. We were glad to help you.

Chairman DOMENICI. We have a very busy afternoon. We need a little bit of preliminary time to make some opening remarks and do a little bit of housekeeping, and then we will proceed immediately to the witnesses. We are not going to hold the witnesses to the exact time we asked them, but we just want them to understand that there are many witnesses to appear, so we would appreciate it if they would keep their testimony succinct, and if they have written testimony, we will make it a part of the record.

I want to open by thanking Congressman Skeen for joining me here in Roswell for these public works and infrastructure hearings.

We are pleased to have you, Joe, and I am sure that during the day, the witnesses will also be pleased that you joined us. Because of your interest and knowledge of local government and local problems, you will help my committee immensely by your presence and by your participation.

I invited Senator Bingaman to join us, and because of scheduling problems, he was unable to attend. He has submitted an excellent statement analyzing public works needs and infrastructure problems. I am going to make his statement part of the record¹ and thank him very much for his positive statement, for his support of

¹ See p. 4.

new and different infrastructure financing approaches, and for his support of a bill which I have introduced in that regard.

OPENING STATEMENT OF CHAIRMAN DOMENICI

I think you know it is a pleasure for me to be here in Roswell. Earlier this week, we had committee hearings in Farmington. We got some excellent testimony there. Monday, the Secretary of Transportation, Elizabeth Dole, will be in the city of Albuquerque to meet with city and State officials regarding transportation and airport needs, and as I indicated before, I am genuinely pleased that Congressman Skeen is here.

WASHINGTON FOCUSES ON INFRASTRUCTURE NEEDS

At the outset, let me say that there is a new focus in Washington and new attention being placed on our national infrastructure needs—that is, what are our Nation's needs for highways, water and sewer treatment plants, bridges, airports, and all those kinds of public projects that require vast sums of capital.

SURFACE TRANSPORTATION ACT

We just completed a historic bill that at least takes one of these infrastructure needs, and that was the passage during the lame-duck session of the Surface Transportation Assistance Act of 1982. It is amazing to look at the figures, but it is true that this act alone will result in \$57 billion being made available to the States over the next 4 years for highways and bridge construction and for highway safety. While that is an enormous amount of money, we are well aware that highways and bridges and the safety of the highways and road systems is an area where there is an enormous need, but we are pleased that we have at least increased the resources dramatically.

To bring it right down to the local level, New Mexico will receive \$420 million over the next 4 years as a result of this new legislation. We had the chairman of the highway commission and the chief engineer testify in Farmington with regard to New Mexico's use of that money, and today, shortly, we will hear from the secretary of transportation of the State. Her jurisdiction is much broader than just the highways, and we look forward to her testimony in that regard.

MUST SPEND HIGHWAY MONEY WHEN ALLOCATED

And I would like here to recognize that while we are not hearing from the highway commission, that we do have Commissioner Lee in the audience. He is a member of the highway commission, and his district encompasses this part of the State. We are delighted that you are here, and we will talk to you privately about any problems you have. We have received the testimony of your chairman and the chief engineer. I can say for myself, my primary concern with reference to the highway program, Commissioner Lee, is that when we get such a large sum of money, and when we will keep getting that for the next 4 years, it is our concern that the State of New Mexico spend that money in the year that it is allo-

cated, because the law is pretty tough—if you do not spend it, it lapses. And we surely do not want any of that money to remain unallocated and projects to go by the boards because we are unable to let the money to contract. We have done that in the past. I have no reason to suspect that it will occur now, but I just in passing want to also tell you that as a commissioner, because it is vital that the money get spent, because it produces jobs and also fills some of the tremendous needs that exist in highways, bridges, interstates, and maintenance.

It seems to me that we too frequently conduct these kinds of hearings back in Washington and hear broad, general statistics from across the country. I think it is good that the committees come down and listen to the local people, to add that inventory of knowledge to what we accumulate from experts, who attempt to promulgate ideas about the whole country and propose notions about the whole country, and for that reason, I am pleased that we are here today.

INFRASTRUCTURE JOINT GOVERNMENTAL VENTURE

Obviously, infrastructure—that is, public works projects that people and communities need for business and to participate in celebrating life—are joint ventures between States and local communities and the Federal Government. They are not the exclusive responsibility of any, but nonetheless, they are the joint obligation of all.

We have in the past had many categorical grant programs. I submit that it is time for some innovative approaches, not by way of doing away with the categorical programs, but it seems to me that we have to find a better way to make our money go further.

ESTABLISH INFRASTRUCTURE BANK

We are very appreciative that one of our sovereign States came up with a genuinely innovative idea, and it finds itself in the Domenici infrastructure bill that I have shared with you, Joe, Senate bill 532. That State decided that for their waste water treatment funding, that rather than accept grants to each community for a piece of a project, that they would like to put the entire State allocation in a revolving fund, and they would put State money in that fund, and they would use the user fees charged by the communities as payment into the fund; they will make long-term, low-interest loans and as a result, have a revolving sum of money that will be there and will continue to be usable by the various communities. They have amazed us by convincing the leadership, at least in the Senate, that if we put their money in there, they can build about four times as many projects over the next 10 years by their revolving and multiple financing arrangements as we will be able to build in our direct grant program. So I experimented and drew up a national bill, seeing if we could set up a national infrastructure bank, and then each State could set up their own revolving funds. It will need a lot of fine tuning, but I submit with the needs as large as they are, the time has come for us to find some better ways to do some of the capital improvement programs.

We have asked people to comment on it, but that is not the exclusive testimony. We want to know right now, from you, what kinds of problems you are having and whether the programs we have are working.

With that, I want to yield to my good friend, Congressman Skeen, and then we will take our four witnesses.

Joe?

STATEMENT OF HON. JOE SKEEN, A U.S. REPRESENTATIVE IN CONGRESS FROM NEW MEXICO

Congressman SKEEN. Pete, I do not want to delay the proceedings of this hearing, because I think that the testimony we are about to hear is extremely important. I know it is to me. I came here to listen much more so than to speak.

But I want to begin by welcoming you to the Second Congressional District—not that you need to be welcomed here, but in light of the fact that your great prominence at the national level, I think we in New Mexico feel that you are our own U.S. Senator, and we appreciate the work that you are doing, and you have not lost any touch whatever that I can see with those of us who work day by day within the Second District and the communities therein, and that you have a deep interest in those problems.

I want to commend you on the hearing and say that I read in a column this morning something about “a black box” at committee hearings and so forth, because of some complaints of your colleagues on the Budget Committee about the cigarette smoke. Well, Pete, you do not even need the “black box” down here. We have preconditioned air. We can just almost clean out all the cigarette smoke.

So welcome down here, Pete. We appreciate very much the work that you have done in this area. I want to thank your staff as well. The briefing has been exceptionally good on the subject matter that we wanted to cover and what the focus is and what the goals are. These are not just frivolous hearings. Many folks seem to take the attitude that any hearing is really not going to accomplish much. I think that they do, a great deal. And we particularly appreciate your participation, as local government officials, because you are an extremely important part of the work that we do in Washington when we deal with the problems such as infrastructure. And thank you so much, Senator Domenici, for defining what “infrastructure” is. The common citizen would like to have a clear understanding of what we are talking about, and I think you did an exceptionally good job.

Thanks for being here, Pete. Thanks for inviting me to be a participant in this hearing. I am looking forward to what we shall gain and garner from the testimony that is here and will be presented here today, and once again, welcome, and thank you.

Chairman DOMENICI. We will now proceed. We have two panels of mayors. We will start with the first four—the Honorable Peter York, the mayor of Roswell; Mr. Nick Pappas, representing lots of mayors, who is the executive director of Southeast New Mexico Economic Development District; the Honorable Ramona Vallejos,

mayor of the Village of Tularosa; and the Honorable John Fletcher, mayor of the city of Hobbs.

We are going to proceed in the order that I called your names. Mayor York, we are in your city, and we are going to let you lead off.

STATEMENT OF PETER YORK, MAYOR OF ROSWELL, N. MEX.

Mayor YORK. Thank you, Chairman Domenici and Congressman Skeen.

ROSWELL'S PROBLEMS ARE NOT UNIQUE

Before beginning my remarks, I must caution the committee against dismissing what you are about to hear as the worst case situation. How Roswell's infrastructure problems have developed, although atypical, is hardly unique. Many other communities throughout this Nation that were in the recent past dominated by a single industry and then lost that industry are faced with the same magnitude of problem now confronting Roswell.

Furthermore, because Roswell's problem is comprehensive, the plight of other communities—almost every community—with respect to financing an individual public works need must not go unrecognized by the committee. A municipality that has an inadequate water system, and little or no hope of financing improvement, may be faced with an impediment to economic development which alone may be as deleterious there as Roswell's comprehensive problem is here. Certainly, it may be so viewed by that municipality's citizens.

EXPERIENCED PERIODS OF EXPENSES AND CONTRACTION

In the past three decades, Roswell has been impacted by localized economic stresses which today cause it to be confronted with a comprehensive infrastructure problem. Since 1950, this community has experienced not stability, not protracted growth, not protracted decline; but rather, has undergone periods of expansion and contraction. The fifties saw rapid growth in Roswell resulting from development of the former Walker Air Force Base and attendant nearby missile sites. Most of the city's public works were constructed during that decade. The emphasis then had to be placed on satisfying immediate demands caused by accelerated expansion, not necessarily build for permanence or plan for the future.

With the 1960's, severe economic depression came to Roswell. It came when the community's dominant industry, Federal defense, was quickly and completely extracted. First the missile installations, then Walker Air Force Base, were closed. Practically overnight, Roswell was reduced from New Mexico's second largest city to its fourth or fifth largest. Property values plummeted. Unemployment was staggering. The city then had on its hands an infrastructure which was in some respects excessive, and in all beyond its reduced capabilities to maintain. Throughout the seventies, Roswell's economy improved little by little—I should say it was improved, as Roswell did not get back on its feet magically, but rather did so only because of the hard work of many citizens and some aid from our State and Federal governments. As the local economy was

improved, so was the city's capabilities for maintaining its infrastructure—infrastructure, remember, that was developed in the fifties, and partly because of the limited maintenance earlier and partly because of just old age, had already reached the end of its useful life.

Then, in the late seventies, Roswell once again began to experience dramatic growth, because of a nearby natural gas play and also because the economic diversification, which so many had worked so long and hard for, began to pay dividends in promoting further development. This trend is continuing. Consequently, with respect to its infrastructure, the city is now faced with having to play catch up and provide for growth at the same time—an almost impossible task given local financial constraints.

REPORT SHOWS INFRASTRUCTURE PROBLEMS

To aid you in understanding the magnitude of the infrastructure problem which is today confronting Roswell, I have provided the committee with a computer report prepared expressly for this occasion. Starting from the bottom of the page and reading up, the report reflects estimates of the city's infrastructure needs, reveals how much the city is committing from its own resources annually to satisfy those needs, and indicates the remaining bonding capacity available to the city.

CITY OF ROSWELL
SPECIAL REPORT
MARCH 31, 1983

CITY OF ROSWELL

G/O BONDS CAPAC.	G/O BOND INDEBT	AVAIL BAL.
\$ 3,470,973.64	\$ 1,950,000.00	\$ 1,520,973.64

FISC YR.	REV. TOTAL	EXPEND TOTAL	EXPEND PW CAP.	PCT.	EXPEND OTHER
81-82	\$21,642,865.00	\$20,840,248.00	\$3,780,770.00	18.14%	\$17,059,478.00
82-83	\$24,593,207.00EST	\$24,670,461.00EST	\$4,671,806.00EST	18.94%	\$19,998,655.00EST

PW TYPE	MASTER PLAN	DONE BY	DATE	COST TO 1990	COST TOTAL
DRAINAGE	DRAINAGE	TOM MANN ASSOC.	1982	\$7,681,600.00EST	\$30,000,000.00EST
SEWER-OUTFALL LNS	W FACILITIES	WILSON & CO.	1982	\$6,759,000.00EST	\$16,000,000.00EST
SEWER-PLANT	W FACILITIES	WILSON & CO.	1982	\$14,350,000.00EST	\$14,350,000.00EST
STREETS-RECONSTRUCTION	STREETS & ALLEYS	ROSWELL	1982	\$10,460,000.00EST	-----
STREETS-REPAVING	STREETS & ALLEYS	ROSWELL	1982	\$ 6,400,000.00EST	-----
WATER SYSTEM	WATER	WERKENHUFF AS.	1976	\$ 2,061,000.00EST	\$ 9,661,000.00EST
			TOTAL	\$47,711,600.00EST	

MAYOR YORK. Analyses of the city's infrastructure needs indicate that in order to have adequate public works systems in 1990, approximately \$48 million must be spent over the next 6 years. Of course, certain of those improvements, for example, a new wastewater treatment plant, will have a useful life beyond 1990. But after 1990, there will be needs for additional sewer outfall lines, streets, drainage, et cetera.

Frankly, though, I am too worried about the city being able to respond to the present and near-term infrastructure demands, to be too concerned about it being able to keep pace with expansion in the next decade. Does this mean that I have little regard for what happens in the future, or that the city places no emphasis on responsible planning? No. It means only that I am daily faced with the difficulties resulting from inadequate drainage systems, streets that should be reconstructed but can only be patched, a wastewater treatment plant that has been continually out of compliance with its Federal EPA permit since February 1977, and further, because I am understandably apprehensive about achieving the \$48 million objective, much less anything beyond.

AVENUES POSSIBLE TO HELP SOLVE PROBLEM

You may be surprised that I am only apprehensive, not skeptical, of achieving the 1990 objective. Please note from the computer report that Roswell is committing approximately 20 percent of its annual expenditures to public works capital projects. For fiscal year 1982-83, this amounts to almost \$5 million. If we can sustain this level of expenditure over the next 6 years—admittedly, a hardship on regular municipal operations—the city will be more than halfway to meeting the \$48 million objective. I daresay that Roswell is committing a greater percentage of its annual income to capital projects than any other municipality in the State, and probably more than the vast majority of cities its size in the Nation. It can do no more under existing circumstances.

Second, the New Mexico Legislature has just given municipalities authority to increase taxes locally after approval by the voters at referendum. I believe our infrastructure problems are so obvious and acute that Roswell voters will vote to tax themselves more.

Third, I feel that the jobs bill passed by the Congress last week, Senator Domenici's bill, S. 532, and other initiatives at the Federal level, are demonstrative of a greater awareness on the part of Federal officials for the plight of local communities in meeting infrastructure needs.

Fourth, as indicated by the computer report, Roswell does have some remaining bonding capacity.

In conclusion, I am optimistic that Roswell will be able to overcome greater obstacles and satisfy its comprehensive and serious infrastructure problem, but I would be remiss at this point if I did not tell you what I believe to be the best Federal program for aiding localities in financing local projects—and that program is general revenue-sharing.

It is inexpensive for the Federal Government to administer—I understand that there are less than 100 personnel in the Office of Revenue-Sharing—and it allows local officials to establish priorities

and work on timetables of their own choosing. I can assure you that Roswell will be applying its GRS entitlement to satisfy infrastructure needs, and in this, I do not believe it to be atypical from most other localities.

Thank you very much.

Chairman DOMENICI. Thank you very much, Mayor York.

Statement of the Honorable Peter R. York,
Mayor of the City of Roswell, New Mexico
Before the U.S. Senate Budget Committee's
New Mexico Infrastructure Hearing
Roswell, New Mexico
March 31, 1983

Before beginning my remarks, I must caution the Committee against dismissing what you are about to hear as a worst case situation. How Roswell's infrastructure problems have developed, although atypical, is hardly unique. Many other communities throughout this nation that were in the recent past dominated by a single industry, and then lost that industry, are faced with the same magnitude of problem now confronting Roswell. Furthermore, because Roswell's problem is comprehensive, the plight of other communities -- most every community -- with respect to financing an individual public works need must not go unrecognized by the Committee. A municipality that has an inadequate water system, and little or no hope of financing improvement, may be faced with an impediment to economic development which alone may be as deleterious there as Roswell's comprehensive problem is here. Certainly, it may be so viewed by that municipality's citizens.

In the past three decades, Roswell has been impacted by localized economic stresses which today cause it to be confronted with a comprehensive infrastructure problem. Since 1950, this community has experienced not stability, not protracted growth, not protracted decline; but rather

has undergone periods of expansion and contraction. The 1950's saw rapid growth in Roswell resulting from development of the former Walker Air Force Base and attendant nearby missile sites. Most of the City's public works were constructed during that decade. The emphasis then had to be placed on satisfying immediate demands caused by accelerated expansion, not necessarily build for permanence or plan for the future. With the 1960's, severe economic depression came to Roswell. It came when the community's dominant industry, federal defense, was quickly and completely extracted. First the missile installations, then Walker Air Force Base, were closed. Practically overnight Roswell was reduced from New Mexico's second largest city to its fourth or fifth largest. Property values plummeted. Unemployment was staggering. The City then had on its hands an infrastructure which was in some respects excessive, and in all beyond its reduced capabilities to maintain. Throughout the 1970's, Roswell's economy improved little by little; -- I should say it was improved, as Roswell did not get back on its feet magically, but rather did so only because of the hard work of many citizens and some aid from our State and Federal Governments. As the local economy was improved, so was the City's capabilities for maintaining its infrastructure; -- infrastructure, remember, that was developed in the 1950's and, partly because of the limited maintenance earlier and partly because of just old age, had already reached the end

of its useful life. Then, in the late 1970's, Roswell once again began to experience dramatic growth; because of a nearby natural gas play and also because the economic diversification, which so many had worked so long and hard for, began to pay dividends in promoting further development. This trend is continuing. Consequently, with respect to its infrastructure, the City is now faced with having to play "catch-up" and provide for growth at the same time, an almost impossible task given local financial constraints.

To aid you in understanding the magnitude of the infrastructure problem which is today confronting Roswell, I have provided the Committee with a computer report prepared expressly for this occasion. Starting from the bottom of the page and reading up, the report reflects estimates of the City's infrastructure needs, reveals how much the City is committing from its own resources annually to satisfy those needs, and indicates the remaining bonding capacity available to the City. Analyses of the City's infrastructure needs indicate that in order to have adequate public works systems in 1990, approximately \$48 million must be spent over the next six years. Of course, certain of those improvements, for example a new wastewater treatment plant, will have a useful life beyond 1990. But, after 1990, there will be needs for additional sewer outfall lines, streets, drainage, etc. Frankly, though, I am too worried about the City being

able to respond to the present and near-term infrastructure demands, to be too concerned about it being able to keep pace with expansion in the next decade. Does this mean that I have little regard for what happens in the future, or that the City places no emphasis on responsible planning? No, it means only that I am daily faced with the difficulties resulting from inadequate drainage systems, streets that should be reconstructed but can only be patched, a wastewater treatment plant that has been continually out of compliance with its federal E.P.A. permit since February, 1977; -- and further, because I am understandably apprehensive about achieving the \$48 million objective, much less anything beyond.

You may be surprised that I am only apprehensive, not skeptical, of achieving the 1990 objective. Please note from the computer report that Roswell is committing approximately 20% of its annual expenditures to public works capital projects. For FY 82-83, this amounts to almost \$5 million. If we can sustain this level of expenditure over the next six years - admittedly, a hardship on regular municipal operations --the City will be more than half way to meeting the \$48 million objective. I dare say that Roswell is committing a greater percentage of its annual income to capital projects than any other municipality in the State, and probably more than the vast majority of cities its size in the nation. It can do no more under

existing circumstances. Second, the New Mexico Legislature has just given municipalities authority to increase taxes locally after approval by the voters at referendum. I believe our infrastructure problems are so obvious and acute that Roswell voters will vote to tax themselves more. Third, I feel that the jobs bill passed by the Congress last week, Senator Domenici's S.532, and other initiatives at the federal level are demonstrative of a greater awareness on the part of federal officials for the plight of local communities in meeting infrastructure needs. Fourth, as indicated by the computer report, Roswell does have some remaining bonding capacity.

In conclusion, I am optimistic that Roswell will be able to overcome great obstacles and satisfy its comprehensive and serious infrastructure problem, and I am appreciative of your interest in this problem. But, I would be remiss at this point if I did not tell you what I believe to be the best federal program for aiding localities in financing capital projects; -- and that program is General Revenue Sharing. It is inexpensive for the Federal Government to administer -- I understand that there are less than 100 personnel in the Office of Revenue Sharing -- and it allows local officials to establish priorities and work on timetables of their own choosing. I can assure you that Roswell will be applying its G.R.S. entitlement to satisfy infrastructure needs; and in this I don't believe it to be atypical from most other localities.

Thank you.

Chairman DOMENICI. Mr. Nick Pappas, we are glad to have you.

Mr. PAPPAS. Mr. Chairman, I have prepared comments for distribution by the committee, so rather than read the comments, I think it may be easier to summarize in the essence of time.

Chairman DOMENICI. We will make them part of the record.

Mr. PAPPAS. Thank you.

STATEMENT OF NICK J. PAPPAS, EXECUTIVE DIRECTOR, SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

Mr. PAPPAS. My name is Nick J. Pappas. I am the executive director of the Southeastern New Mexico Economic Development District. The organization I represent does represent 21 municipalities and five county governments.

COST/BENEFIT RATIOS AND HOW POPULATED AREAS

What we have in southeastern New Mexico is a very sparsely populated area. We have 210,000 people residing in an area of approximately 27,000 square miles, so we have 8 people per square mile. You start talking infrastructure, particularly from a national perspective, and you are looking at eight people per square mile, and you are basing your decision on a cost-benefit ratio, and it is very difficult to justify some of the highways, perhaps, some of the national type of infrastructure projects.

Infrastructure to me is, Senator, a life support system of the people of a community. It involves their recreation areas, hospitals, streets, some of the things that you listed earlier. And again, in a small community, it is very difficult for the government of a small community to be able to afford some of the infrastructure needs, especially those that have been regulated, perhaps, by sometimes the Federal Government—wastewater treatment plants—that the costs to meet their standards are so high that a small community just cannot afford to pay those prices.

BILL NEEDED

Therefore, we do need help. Your bill, I think, is an innovative approach because it does, in fact, expedite getting the funds available to a community so that they can go into action. You do not waste 5, 6, or 7 years in planning and applying for the dollars while the cost of the project spirals. We do like programs like EDA—you know I would like that—because we think we have done several things with EDA programs, public works programs. The UDAG program does leverage private investment. Some of the Farmers' Home programs do, in fact, help communities, but I think you are correct that we need to create some revolving fund approaches, and this is one way we can do it.

We have several needs in our district. The waste isolation pilot program in the Carlsbad area is going to create new infrastructure needs; the Fort Stanton Airport, as we call it, or the Sierra Blanca Airport, is an issue. We do need that type of infrastructure to serve a regional population. And we have several other community needs.

With that, I will just stop, and if you have any questions, I will be glad to try to answer them.

Chairman DOMENICI. Thank you very much.

UNITED STATES BUDGET COMMITTEE FIELD HEARING
"INFRASTRUCTURE NEEDS AND FINANCING"
Roswell, New Mexico
March 31, 1983

Statement by Nick J. Pappas, Executive Director
Southeastern New Mexico Economic Development District

Honorable Senator Domenici and members of the Committee, my name is Nick J. Pappas, Executive Director of the Southeastern New Mexico Economic Development District. The organization I represent is a non-profit corporation organized twelve years ago by elected officials who had joined together in an effort to up-grade the economic conditions of our part of New Mexico. One of our major concerns has been the public works and capital improvement needs within our District and considerable effort has been expended in locating the necessary financing for such projects.

Our District is composed of the counties of Chaves, Eddy, Lea, Lincoln and Otero. According to the 1980 Census, we have a combined population residing within the District of 210,751 people. There are 26,140 square miles within our five-county area or an average of eight people per square mile. The bulk of our population resides within the municipal boundaries of our twenty-one incorporated communities which offers considerable open space between population centers.

The Hearing today relates to infrastructure needs and financing. I believe I can safely say that our infrastructure needs are greater than ever before; the cost for infrastructure improvements is higher than ever before; our local governments' ability to finance infrastructure improvements is more limited than ever before; and that our heretofore available resources such as federal assistance is less available today than at any time in the past twenty years.

Please allow me to regress for just a moment to offer my definition of infrastructure and what it means to an area such as Southeastern New Mexico. Basically, the

infrastructure of a given area is the "life support system" to the people of that area. To a home, it could be the water and sewer systems, the cooling and heating equipment, a place for recreation and the facilities to store and prepare food. To a cluster of homes or a neighborhood, it would be the streets; senior citizen and youth activity centers; water, sewer and gas pipes; electric and telephone lines and poles; fire hydrants; fire stations; jails; and school parks. To a community it is basically the same as the neighborhood but at a much greater level. To the region, it includes the highways, airports, man-made or natural recreation areas, universities and hospitals to name a few. There is the infrastructure needed by a state government and the infrastructure needed by a federal government for defense purposes and other reasons. All infrastructure relates to the quality of life to be had by our citizens and, in all cases, infrastructure is paid for by our citizens.

Mr. Chairman, the ability to finance infrastructure projects could require a study of its own and is, I believe, a major concern of your Committee. Too often we base the approval or disapproval of the financing of an infrastructure project on the basis of a cost/benefit ratio. When you are talking about a sparsely populated area or many times a small community, the cost per person to be served by the project is outlandish. We know that the construction of waste water treatment facilities in small communities, based on federal requirements, would be prohibitive unless subsidized with outside sources of capital. Likewise, the financing of a regional airport such as the proposed Sierra Blanca Airport in Lincoln County, would be impossible without outside financing. Counties and municipalities are utilizing their bonding capability to capacity. As a community grows, revenue bonds can be sold based on projected dollar returns, but when a community is replacing worn out, deteriorated facilities, repayment of bonds is difficult without increasing usage charges. We seem to be in a spiral of assessing new taxes, be they through general obligation, revenue bonds, gross receipts taxes, property taxes, road usage or fuel taxes, and several other types of taxes that are used. It is obvious that local governments are at the caution stage of additional taxation and are nearing the fringe of the taxpayer revolt. Any new assessment for public works or infrastructure improvements

must be carefully planned, prioritized and explained to the citizenry in the future.

We appreciate the need to reduce federal spending and put our economy back into full production. In my opinion, the Congress cannot, however, eliminate its participation in the development of necessary infrastructure projects in our region. We have needs relating to the Waste Isolation Pilot Program, White Sands Missile Range and Holloman Air Force Base which are in the national interest. We have beautiful mountain recreation areas controlled by the federal government which should be continually developed for our citizens. We are obligated to assist in the transportation of people and goods through our region as part of a national network which requires national assistance. Our people need hospitals, educational opportunities and jobs which could exist with federal infrastructure assistance to medical centers, universities and industrial parks.

In regard to Senate Bill 532, we applaud the intent to encourage private capital to flow into municipal markets for public capital improvement needs. It appears that the Public Investment Incentive Act of 1983 could expedite the arranging of capital for public works projects. Programs such as HUD's Urban Development Action Grant, which leverages private capital, while improving the infrastructure of a community, should be continued and if possible at a higher level of authorization. In our case, we have dealt with the programs and administration of the Public Works and Economic Development Act of 1965. It would be prudent and wise for the Congress to continue the Economic Development Administration and its district program which has helped eliminate infrastructural problems throughout the nation and simultaneously assisted in developing the economy of distressed areas.

Mr. Chairman, thank you for this opportunity to testify before your Committee. We in Southeastern New Mexico feel that our "growing pains" are just beginning, our financial resources are average, and our need for the future will be great. It will take municipal, county, state and federal governments working together and with the private sector to meet the challenges of the future and with the type of leadership represented in this room, it can be done.

Chairman DOMENICI. Congressman Skeen, I thought maybe we would let all four testify before we ask questions, but if you at any time want to stop a witness and ask, please feel free to.

Ramona Vallejos, mayor of the village of Tularosa, we are delighted to have you.

Mayor VALLEJOS. Thank you, Senator Domenici, and Congressman Skeen.

**STATEMENT OF HON. RAMONA A. VALLEJOS, MAYOR,
VILLAGE OF TULAROSA, N. MEX.**

Mayor VALLEJOS. First, let me say what an honor it is to be here today, and most especially, what an honor it is to be representing my beautiful community today.

I would like to give you an idea of the kind of budget our little community works with. We have a total general fund budget of \$263,000, and we have a water and sewer fund of \$285,000. In January, we were informed that we would have to cut our general fund budget because the State had overestimated the amount of gross receipts tax that we would be receiving by about \$23,000. I know this does not sound like a lot of money, but it is for a little community the size of Tularosa. The first thing we had to do was cut in the area of salaries. We eliminated the only technical person we had on staff, and we cut another position to 16 hours a week. Well, what this does is, with the important projects that we have to do, it just puts them that much further behind, that much on the back burner.

These are what I feel and what I know are our priorities. One, we need to continue phase I, or improvements to the water treatment plant, and start the installation of phase II, distribution of water; we need to continue phase II, the distribution of our waste water treatment plant. We are in dire need of a police and jail facility. We need to continue a maintenance program for our city streets, and we are in need of housing and housing rehabilitation.

Our water treatment plant, we are in the process of updating the plant right now. It has taken us 10 years to get where we are today, mainly because of lack of funding, and once we got the funding, it took us 3 years to get the project started.

WATER NOT SAFE

We have State money, money from Four Corners Regional Commission, and then from HUD, which is imminent threat moneys—our water is not safe to drink, according to HUD. We went to construction; our contract was awarded at \$360,579. Today, we estimate that it is going to cost us \$504,458 to finish the project. Now, this is \$133,000 over the awarded project cost, or \$38,000 more than what we have set aside to with project, so you know where the money is going to come from. Come July 1, our citizens will see a water increase. What we were going to do was modify the plant, put in a presedimentation pond, modify the filtration plant, and modify the chlorinator. Now, this is just a small portion of what our initial plans called for. We have surface water that is received from the Rio Tularosa. We have a lot of problems with our water quality. We have a high level of sulfates, and here is where we got

our imminent threat money—our elderly people and infants cannot drink our water, because it gives them the laxative effect.

Also, we are having problems with the waste water treatment plant at Mescalero. There is a seepage into our water, so there is a high level of nitrates.

This, again, is just the beginning. What we are doing now is just barely going to take care of that problem. We are in need of distribution. A lot of good it is going to do us to have high water quality when people turn on their shower and a few drops fall out.

We are talking about for distribution, a cost of \$4.6 million. We have a beautiful waste water plant now, a \$1.5 million plant. We are in need of distribution there, and we are talking about another \$1.2 million.

Our police and jail facility was closed in August of last year. The building was condemned by the State fire marshal's office. We have moved into the fire department, with permission from the State fire marshal's office, until we can come up with a building and hopefully, a building that we can put in a jail.

We went to a bond issue which failed. Our bonding capacity is only \$265,000. What has had to happen is we are sending our prisoners or any prisoners we might have to Alamogordo, which is a 24-mile roundtrip drive. We have a very small police department. If a day officer has to take someone in, the village is left unprotected, and during the weekends we have two officers, but we need to keep them both there. We have some ideas of how we could build a police facility for a very small amount, but again, we are going to need money to do it.

Tularosa has not seen any housing development for close to 15 years, until the last month, and a construction company out of Ruidoso is building two new homes, and we have seen some applications for rezoning so that an apartment complex can be built.

Chairman DOMENICI. How are those two homes financed? Is that Farmers Home?

Mayor VALLEJOS. Yes, Senator, they will be Farmers Home.

Last year, we were unsuccessful in our attempt to get financing for a 34-unit housing complex for the elderly. Because we do have a high concentration of elderly and low income, we are in dire need of housing rehabilitation, and this is a priority that we will address when we apply for community block grant moneys.

Our maintenance, our city streets, had it not been for Otero County and the State highway department, we would be riding around on streets with a lot of potholes, but we were able to get on a cooperative agreement program with them. How long the county will continue to allow us to do this—it does not cost the village anything, because the county does the work, and that accounts for our portion of the 50 percent matching.

Another thing I would like to bring up, since Tularosa does serve as a gateway to the White Sands Missile Range, it would be my wish to see some type of street funding from the Federal Government because of the heavy traffic that we have coming through our community.

CONTINUED SUPPORT OF REVENUE SHARING NEEDED

The solutions to our needs—it is obvious that we cannot do it. What our city council has decided to do is that we will be increasing water and sewer rates July 1. We hope to start a fund to set aside moneys so that sometime in the future, we will be able to have our portion of the moneys, if some Federal moneys become available. The county went to general obligation bond in February. That was also turned down in Tularosa, but it was passed in the county. This shows us that people are just tired of an increase in taxes. Tularosa has seen a 98-percent increase in property taxes. That is the highest that anyone in the county was charged. I know we have heard a lot lately that people have just been spoiled, and now we just have to pay for that, but for a community who has never had it, I just cannot say we have been. I would ask your continued support of revenue-sharing and of any programs that you can give us to help us to continue. We are not asking for a hand-out. We are just asking for some help.

I appreciate the time and the fact that you have asked me to come here today.

Chairman DOMENICI. Thank you very much.

"Infrastructure Needs and Financing"
Village of Tularosa

Mr. Chairman and Committee Members:

First of all, let me say what an honor it is to be sitting here today and what an honor it is to be representing my beautiful community today.

Our little village of Tularosa seems to have been caught in this cycle of moving one step forward then getting pushed ten steps back. All we've heard in the past few months is budget cuts, budget cuts. Like the State of New Mexico, we were also faced with an overestimate of the amount of gross receipts taxes and gasoline taxes that we would be receiving in Fiscal Year 1982-83 in the amount of approximately \$23,000. This may not seem like a large amount of money but to a community whose total General Fund budget is \$263,000, it really hurts. Our solid waste fund will show a deficit in the amount of \$5,500. Unfortunately, when we talk about cutting the first area we look at is salaries, since that seems to be our greater expense. We ended up eliminating one technical position and cutting another position to 16 hours a week. This takes away some of the services our people were receiving. In talking with our bookkeeper in preparation for next year's budget we know we are going to be faced with more cuts.

We will be able to continue to run the village but those projects which we need so badly to improve services to our people will once again be put on the back burner. (See Attachment 3)

The following are our priorities:

- 1) A new police and jail facility;
- 2) Continuation of Phase I, Improvements to the Water Treatment Plant, and the installation of Phase II, Distribution of Water;

(1)

- 3) The installation of Phase II, Distribution of Sewer Services;
- 4) A continued maintenance program to our city streets;
- 5) Housing and Housing Rehabilitation.

WATER TREATMENT PLANT:

We are currently in the process of upgrading our Water Treatment Plant. What we are currently doing is only a small portion of what needs to be done at the plant. It has taken us probably close to 10 years to get where we are today with the water project. The major delay has been lack of funding. Three years ago, funding was finally worked out with the Village receiving three-fourths of the project costs (costs we had anticipated at the time). We were awarded \$100,000 from the state Environmental Improvement Division; \$100,000 from the Four Corners Regional Commission; and \$98,000 from the Department of Housing and Urban Development (Eminent Threat monies). Our portion was raised with the selling of municipal water bonds (water rate increases).

The contract for construction was awarded in May, 1982 at \$360,579.00. Today, because of delays, we estimate our final project costs to be at \$504,458.00. This figure is \$133,879 over the awarded project costs. We anticipate an estimated overrun of \$38,000 from monies the Village has set aside. (See Attachment 1) Where will we come up with the additional \$38,000? Where else, through water rate increases in the next fiscal year.

On completion, our plant will address three areas: 1) A presedimentation pond will be installed. This pond will hold water storage of three to five days. This will allow the water to settle before entering the filtration plant. 2) Modification to the present filtration plant to allow better cleansing of the water. 3) Modification to the chlorinator.

Our design plans called for additional work but because of lack of funding we were only able to address a portion of the plans but those items we felt were the most important.

Our water is surface water received from the Rio Tularosa. The reason for the plant is the high turbidity in the water. Tularosa is also known to have extremely hard water due to the chemical content in the water. Probably, the majority of people living in Tularosa don't drink the water, because of a high level of sulfates a laxative effect is given to the elderly and to infants.

At the same time we are having a problem with seepage into our water supply from the Wastewater Treatment Plant on the Mescalero Apache Reservation. This is evident because of the presence of algae and moss growth in the stream brought about by the concentration of nitrates.

Something we are watching very closely is the current highway construction going on east of the Village limits. The highway department is having to use water from the stream and because of this we have shown days of high turbidity in the water.

Other needs to our water system include:

- 1) A new supply line from the existing intake to the water treatment plant - a 16 inch line - Approximate cost: \$250,000.
- 2) A new supply line from the water treatment plant to the existing water storage tanks - Approximate cost: \$300,000.
- 3) Replacing deteriorated water distribution lines and fire hydrants within the corporate limits - Approximate cost: \$2,225,000.
- 4) Construct 17 miles of new water supply line from the Mescalero Reservation to the water treatment plant - Approximate cost: \$1,900,000. In December, 1982, the Village was granted \$24,500 from the Interstate Stream Commission of New Mexico to do a study of the feasibility of this. By doing this project, we would improve water quality since water would be received at a higher point of intake and would be purer. Our resident engineer also feels that there is a 48% water loss at the headgates of the Tularosa Ditch Corporation's intake which is at the boundary of the Reservation. This study will determine this and will study the possibility of retaining this water loss.

Total Costs - Water System = \$4,675,000. If a new line is constructed within two years to the Reservation then the amount would be reduced by \$250,000 or \$4,425,000.

WASTEWATER TREATMENT PLANT:

Our wastewater treatment plant was completed two and one-half years ago. Construction costs were \$1.5 million. This was funded through EPA, EID and local funding. It is our opinion had we not been over-regulated we would have come up with a more efficient, cost-effective plant.

In connection with the plant we were required to install two monitoring wells. Water from these wells will be tested twice a year. This additional cost was \$15,000. In reality, these are two domestic wells miles from the plant. We were required to have these wells for testing because of growth around our plant. Property owners outside the corporate limits use septic tanks and these required tests will make sure what is happening around the plant will not interfere with the plant. Our engineer has informed us that this growth around the plant would not affect us anyway since any runoff goes into the desert. Funding for these wells was again EPA, EID and local.

Our present sewagelines are inadequate. We would require \$1,200,00 for replacement and to serve areas of the Village not presently served.

POLICE AND JAIL FACILITY:

In August of last year the building which housed the police department and jail was condemned by the State Fire Marshal's office and closed down.

For years, the Village had been getting written up by the Otero County Grand Jury and the State Fire Marshal's office because of jail conditions and the condition of the building.

In the middle of September, 1982, we went to a bond election to build

a new police complex. This issue failed by 68 votes. The week before the election the new tax assessment figures for the county were released. Tularosa showed the highest tax increase in the County. In 1982, Tularosa would experience a 98% tax increase. This was due to two prior school bond elections over a two year period. The cost for building a new complex was estimated at \$265,000. This was our total bonding capacity.

What has happened to us since August, 1982? Any prisoners we have are transported to Alamogordo to the Otero County Jail. Our cost \$29.00 a day per prisoner. If we had a prisoner for thirty days or more it would break our budget. Our cost per day when we had the jail was \$6 to \$10. The other drawback to transporting to Alamogordo is the mileage, a 24 mile round trip, and the fact that we have a small police force. During the week-day we have one officer per shift. Fridays and Saturdays two officers. During the week-day the village would be left unprotected while the officer is in Alamogordo. On week-ends, the busy time of the week, one officer is left.

Tularosa has three bars within the corporate limits and one two miles east of us. Any incidents we may have usually come from the bars. Yet what would we do without the gross receipts we receive from these businesses.

Currently, the Police Department is sharing the building housing the Fire Department. The building was built with a 100% State fire funds beings that we are a Volunteer Fire Department. The State does frown on another department being in the building but we do have written permission to stay in the building until we can get a building of our own. We share the utilites with the Fire Department. The problems it has caused is that the two departments do tend to get in each other's way.

Our solution to the problem of getting a building is to purchase two portable buildings from the Tularosa Public School System. Put these two buildings together and brick veneer them as the City Hall Building was done.

City Hall was built in 1974-75 with Revenue Sharing monies which was saved for two years. All the building is a prefabricated structure which was brick veneered.

The original City Hall was built in 1941 with WPA monies. Cells were put into the building and City Hall and the Jail were all in the same small building. In the late 50's the second portion, or the jail, was finally added to the building. This construction was paid for with funds from the water and sewer fund, something which is not permitted now. Utility funds can only be used for water and sewer projects.

Whatever we do we are still going to need money to do it. We do plan some work sessions on our problem of coming up with another building for the police department. This coming fiscal year we are not only going to be faced with the problem of a new building but we are in need of two new police vehicles and raises for our officers since they were the only department not receiving any raises last fiscal year.

HOUSING AND HOUSING REHABILITATION:

Tularosa had not seen any housing development for close to 15 years until recently. A construction company out of Ruidoso, New Mexico is in the process of building two new homes. We have also had an application for rezoning so that an apartment complex can be built.

Last year, we were unsuccessful in our attempt to get financing for a 34-unit housing for the elderly. (Please see Attachment 2 for housing information.)

Because of the high concentration of elderly and low income we are in dire need of housing rehabilitation. This will be a priority when we apply for Community Block Grant monies.

MAINTENANCE PROGRAM TO OUR CITY STREETS:

In the last two years our Village has been fortunate in getting funding

to rehabilitate and pave streets in the city limits. Two years ago we were awarded a 50% matching cooperative agreement with the New Mexico State Highway Department. Had it not been for Otero County we never would have been able to enter into such an agreement. The county commission granted permission to have their Road Department do the work for us. The labor and equipment counts for our 50% matching funds. We initially had to pay for the materials but were reimbursed because of work being done by the County. The first year the total project costs was \$42,000. This year, we have been granted a project of \$74,000. The project will cover the original townsite of Tularosa. These streets have not been rehabilitated since they were put in which was in the middle 50's, and paid for through a bond election. The County has agreed to do the work again and has approved us for a project in Fiscal Year 1983-84.

Because Tularosa serves as a gateway to White Sands Missile Range it is my wish that we could see some type of street funding because of the heavy use of our city streets by traffic going out to the Missile Range.

What are the solutions to our needs? We feel we need to get on a program of doing one thing at a time. On the Water Plant we will only be able to do one small portion at a time. We will continue to press our Legislators for financial support as well as our Congressmen and Senators.

Our people can just not afford to pay much more than they are paying now in taxes. In February of this year the County went to a General Obligation Bond election for addition and improvements to the hospital. Again, this issue failed in Tularosa although it passed in the County. People have just had it in paying more taxes. As it is our people are going to be hit with increases in water, sewer and garbage collection come

July 1, 1983. The saddest part about this is they will not be seeing any additional services. These increases will only help us to keep our head above water and hopefully help us to start on a savings program so that somewhere in the future if we are able to obtain additional funding we will have our portion to do some of these very vital projects.

On behalf of my Village, I appreciate the time you have allowed me today and I ask your support of any financial funding you might be able to give us.

Ramona A. Valiejos, Mayor
Village of Tularosa

ESTIMATE OF CONSTRUCTION COSTS
of IMPROVEMENTS to
TULAROSA WATER SUPPLY SYSTEM

Contract (original amount)	\$360,579.00
Change order #1 - add	19,592.60*
Material Testing	7,200.00
Design Cost	40,900.00
Project Engineer & Inspection	15,000.00
Sub-Total	<u>\$443,271.60</u>
Contingency	23,186.40
Total	<u>\$446,458.00</u>
Overrun - To Date	8,000.00
Additional Overrun - Estimated	<u>30,000.00</u>
Final Project Cost - Estimated	\$504,458.00

* This amount is being deducted from original Contingency line item
in the amount of \$42,779.

1980 CENSUS PROFILE

ENTITY TULAROSA VILLAGE

MAIN SOCIAL CHARACTERISTICS	NUMBER	*PERCENT
1. Total Population.....	2,536	
2. Male Population.....	1,258	50%
Female Population.....	1,278	50%
3. White.....	2,108	83%
Black.....	12	.5%
American Indian.....	19	.7%
Other.....	397	16%
4. Persons Of Spanish Origin.....	1,429	56%
Persons Not Of Spanish Origin.....	1,107	44%
5. Total Elderly Population (65 Yrs. & Over).....	360	14%
6. Elderly White.....	337	13%
Elderly Black.....	-0-	0%
Elderly American Indian.....	2	.08%
Elderly Spanish Origin.....	146	6%
7. Metropolitan Population (50,000 & Above).....	-0-	0%
(49,999 - 2,501) Urban.....	2,536	100%
Rural Population (2,500 & Below).....	-0-	0%
<u>MAIN HOUSING CHARACTERISTICS</u>		
1. Total Housing Units.....	996	100%
Occupied Year Around.....	869	87%
Vacant Year Around.....	121	12%
Seasonal & Migratory.....	6	1%
2. Metropolitan Units (50,000 & Above).....	-0-	0%
(49,999 - 2,501) Urban.....	996	100%
Rural Units (2,500 & Below).....	-0-	0%
3. Occupied Housing Units.....	869	100%
Homeowner.....	671	77%
Renter.....	198	23%
4. Total Substandard Units.....	91	9%
Total Occupied Substandard Units.....	80	9%
Total Units Lacking Complete Plumbing.....	21	2%
Occupied Units Lacking Complete Plumbing.....	10	1%
Total Overcrowded Units.....	70	8%
Overcrowded Units With Complete Plumbing.....	70	8%
Number Of People In Units Lacking Complete Plumbing.....	29	1%
Number Of People In Overcrowded Units.....	438	17%
5. Average Value of Owner Occupied Non-Condominium Housing Units...	\$26,100.00	
6. Average Rent.....	\$117.00	

*Percentages may not be precise due to rounding.

VILLAGE OF TULAROSA
BUDGET CUTS 82-83

<u>Fund</u>	<u>Estimated Revenue</u>	<u>Estimated Cut</u>	<u>Reason</u>
General Fund	\$263,019	\$22,000	State Shared taxes
Solid Waste	62,700	19,475	Rate increase denied
Recreation	2,050	980	State Shared taxes

<u>Fund</u>	<u>Estimated Expenses</u>	<u>Estimated Cut</u>	<u>Reason-area</u>
General Fund	\$262,440	\$22,000	City Manager position Office person Animal Control officer
Solid Waste	61,408	19,475	Expenses cannot exceed Revenues. Must borrow from the General Fund to cover needed expenses-truck salaries.
Water System	293,159	30,000+	Over run on estimated expenses

Chairman DOMENICI. John Fletcher, mayor of the city of Hobbs.

**STATEMENT OF HON. JOHN J. FLETCHER, JR., MAYOR,
CITY OF HOBBS, N. MEX.**

Mayor FLETCHER. Senator Domenici and Congressman Skeen, I want to extend our appreciation to you gentlemen for taking your extremely valuable time to come to our southeastern part of New Mexico to permit us to have an opportunity to make an input as far as it applies to infrastructure and your bill, Senator.

"REAGANOMICS" AND STATE ACTION

Now, with due respect to "Reaganomics," as I read it and understand it, the intent of Reaganomics was to decrease spending at the Federal level, shift it down to the State level, netting an increased value, really, of "bricks and mortar."

But that brings at least three questions to mind that I think should be addressed.

One. Will the State agencies comply with Federal intent?

Two. Will the State implement additional bureaucracies?

Three. Will the State share with its political subdivisions, if at all?

Now, our cities, like Hobbs in southeastern New Mexico, have similar needs and similar obstacles. Some of these local problems must receive Federal attention. Senator and Congressman, I am not going to attempt to give the complete text of our testimony, but please make it a matter of the record.

Chairman DOMENICI. It will be made a part of the record.

Mayor FLETCHER. Thank you.

WASTEWATER TREATMENT

Now, on wastewater treatment facilities, our most expensive project is not complete. It has been ongoing for 10 years, Senator, and you remember when we had the hearings in Albuquerque on that. And I appreciate the fact that you literally carried the ball for us at that time to get us where we are today.

Now, at that time, Senator, the city and you were told by the EPA that inundation basins, flow equalization and secondary clarifiers were not necessary through the year 2000. As expected, our growth has been rapid, and the needs are now. As a matter of fact, we have just completed our flow equalization at a cost of in excess of \$1 million—we are still working on it. The State says, quote, "You should have requested these improvements originally, and now you may not until such time as your plant produces an unacceptable quality of effluent." In other words, after your house burns down, we will authorize smoke alarms.

We cannot afford to make these necessary improvements on our own. You predicted, and rightly so, Senator, that the EPA-approved plants would result in multimillion-dollar electric bills. Senator, I am here to tell you today that that has come true.

HIGHWAYS

On the streets and highways, if the intent of the Federal legislation was to construct and repair highways within municipalities be restricted to interstate construction within cities only, then, again, the result is zero. We cannot afford to make major repairs on State highways within the city. We have a multimillion-dollar program on now on street programs, repair and construction in our city.

FLOOD CONTROL

On flood control and community development block grants received the lion's share of the recent Federal appropriations. The city of Hobbs has now been advised by the State that we do not qualify because we had a small grant 5 years ago. Federal flood control regulations have caused undue hardships in the areas of southeastern New Mexico. These areas do not have the flood experience of other areas throughout the Nation. Our community cannot afford to carry out these mandates, Senator.

HEALTH AND SOCIAL SERVICES

Health and social service programs. If, on top of our inability to carry on the programs mentioned above and provide these basic services, the State were to elect health and social service financial responsibilities to the cities, we would soon be bankrupt.

Senator, all that I have stated are genuine concerns of Hobbs and southeastern New Mexico. The one area that becomes fairly evident is that revenue sharing is still the best type of Federal program available to local government. The intent of revenue sharing, as legislated by the Federal Government, is clear; the grants are direct, and the checks and balances are simple for the assurances that the Federal Government requires.

I was mighty happy this morning to hear you state that the revenue sharing is still in the bill, and that we can look forward to it.

With regard to your Senate bill, we have also attached our comments and conclusions on that, but I would like to say at this time that the Act itself could be the most vital piece of legislation ever to the economic well-being of southeastern New Mexico.

Thank you, gentlemen.

Chairman DOMENICI. Thank you very much.

PRESENTATION TO U.S. SENATOR PETE DOMENICI, U.S. BUDGET COMMITTEE FIELD HEARING, ROSWELL, NEW MEXICO, 1:40 P.M., MARCH 31, 1983, BY JOHN J. FLETCHER, JR., MAYOR, CITY OF HOBBS, NEW MEXICO.

IT IS AN HONOR AND A PRIVILEGE FOR THE CITY OF HOBBS TO SAY "HELLO" TO OUR SENIOR SENATOR AND FRIEND, PETE DOMENICI, AND TO WELCOME ANY OUT OF STATE VISITOR TO SOUTHEASTERN NEW MEXICO, THE HUB OF THE NATION'S ENERGY SOURCE.

WITH RESPECTFUL REFERENCE TO THE TERM "REAGANOMICS", WE NOTE THAT MANY CHANGES IN THE RELATIONSHIPS BETWEEN FEDERAL, STATE AND LOCAL GOVERNMENT HAVE BEEN MADE. THE INTENT OF REAGANOMICS AS IT RELATES TO THESE RELATIONSHIPS CAN BE SUCCESSFUL IF CARRIED OUT TO THE EXTENT THAT FEDERAL GOVERNMENT INTENDED THEM TO BE. ITS PURPOSE AND BOTTON LINE WAS TO DECREASE SPENDING AT THE FEDERAL LEVEL BY SHIFTING PROGRAM RESPONSIBILITIES TO THE STATE LEVEL, NETTING THE SAME OR AN INCREASED VALUE OF "BRICKS AND MORTOR" AT THE LOCAL LEVEL. HOWEVER, THE FOLLOWING QUESTIONS MUST BE ADDRESSED:

- (1) WILL APPLICABLE STATE AGENCIES COMPLY WITH FEDERAL INTENT?
- (2) WILL STATE AGENCIES IMPLEMENT ADDITIONAL BUREAUCRACIES WHEREBY LESS, IF ANY, TANGIBLE RESULTS OCCUR ON THE LOCAL LEVEL?
- (3) WILL THE STATE SHARE WITH ITS POLITICAL SUBDIVISIONS AT ALL?

CITIES LIKE HOBBS, IN NEW MEXICO, HAVE SIMILAR NEEDS AND WILL FACE SIMILAR OBSTACLES, IMMEDIATELY. ALL OF THESE AREAS HAVE LOCAL PROBLEMS THAT MUST RECEIVE FEDERAL ATTENTION, WHETHER DIRECTLY OR INDIRECTLY THROUGH STATE GOVERNMENT.

I. WASTE WATER TREATMENT FACILITIES:

THE CITY OF HOBBS' NEEDS AND ASSOCIATED PROBLEMS IN THIS AREA ARE NOT UNIQUE TO OTHER COMMUNITIES THROUGHOUT THE NATION; HOWEVER, AS EXPECTED, THE MULTI-EXPENSIVE PROJECT IS NOT COMPLETE. SENATOR DOMENICI LITERALLY CARRIED THE BALL FOR HOBBS IN COMPLETING ITS BASIC ACTIVATED SLUDGE-TYPE WASTEWATER TREATMENT PLANT FACILITY. AT THE TIME, THE CITY AND SENATOR DOMENICI WERE TOLD BY THE ENVIRONMENTAL PROTECTION AGENCY THAT INUNDATION BASINS, FLOW-EQUALIZATION AND SECONDARY CLARIFIERS WERE NOT NECESSARY THROUGH THE YEAR 2000. AS EXPECTED, OUR RAPID GROWTH CAME TO PASS AND THE NEEDS ARE NOW. THE STATE, IN ITS INTERPRETATION OF FEDERAL LEGISLATION, SAYS "YOU SHOULD HAVE REQUESTED THESE IMPROVEMENTS ORIGINALLY, AND NOW YOU MAY NOT UNTIL SUCH TIME AS YOUR PLANT PRODUCES AN UNEXCEPTABLE QUALITY OF EFFLUENT. IN OTHER WORDS AFTER YOUR HOUSE BURNS DOWN WE WILL AUTHORIZE SMOKE ALARMS. WE CANNOT AFFORD TO MAKE THESE NECESSARY IMPROVEMENTS ON OUR OWN. SENATOR DOMENICI PREDICTED MANY YEARS AGO THAT THE END RESULTS OF COMMUNITIES BEING FORCED TO CONSTRUCT EPA-APPROVED PLANTS WOULD RESULT IN MULTI-MILLION DOLLAR ELECTRIC BILLS. WE ARE HERE TO TESTIFY THAT SENATOR DOMENICI'S PREDICTIONS HAVE COME TRUE.

II. STREETS AND HIGHWAYS:

IF THE INTENT OF FEDERAL LEGISLATION WAS TO CONSTRUCT AND REPAIR HIGHWAYS WITHIN MUNICIPALITIES BE RESTRICTED TO INTERSTATE CONSTRUCTION WITHIN CITIES ONLY, THEN, ONCE AGAIN, THE INTENT WAS GREAT, BUT THE RESULTS FOR OUR COMMUNITIES ARE ZERO. WE CANNOT AFFORD TO MAKE MAJOR REPAIRS ON STATE HIGHWAYS WITHIN THE CITY LIMITS.

III. FLOOD CONTROL AND COMMUNITY DEVELOPMENT BLOCK GRANTS:

Community Development block grants received the lion's share of recent federal appropriations. The City of Hobbs has already been advised by the state, now acting on behalf of the federal government, that we do not qualify because we received a minor grant five years ago. Again, the intent is great, the benefits to Hobbs are zero. Federal flood control regulations have caused undue hardships in areas of southeastern New Mexico. These areas do not have the flood experience of other areas throughout the United States. Project costs to implement these mandates, nevertheless, cost our community the same as if we were located on the west coast. Only Albuquerque has been assisted by the Corp of Engineers in planning or funding these improvements. Our community cannot afford to carry out these mandates without federal or state assistance.

IV. HEALTH AND SOCIAL SERVICE PROGRAMS:

The above mentioned problems would clearly indicate an attempt on the City's part to solve problems of a municipal nature that without federal and state assistance cannot be accomplished. If, on top of our inability to provide these basic services, the State of New Mexico were to delegate health and social service financial responsibilities to the cities, we would soon be bankrupt.

Senator, all that I have stated before you today are genuine concerns of Hobbs and southeastern New Mexico. The one area that becomes clearly evident is that REVENUE SHARING is still the best type of

federal program available to local government. The intent of Revenue Sharing, as legislated by the federal government, is clear, the grants are direct, and the checks and balances are simple for the assurances that the federal government requires.

Thank you, ladies and gentlemen, for your very valuable time.

COMMENTS REGARDING S.532
FEDERAL/STATE INFRASTRUCTURE
PARTNERSHIP PROGRAM ACT

COMMENTS:

- (1) The Act itself could be the most vital piece of federal legislation ever to the economic well-being of southeastern New Mexico.
- (2) The act could be more specific as to the mandates to the State of New Mexico. Some areas are specific and ideal; however, to allow the state too much discretion could be dangerous. Guidelines such as the original "Revenue Sharing Act" might eliminate state bureaucracy.
- (3) The relationship between private investment capital and state and local projects needs further clarification.
- (4) The relationship between state capital, public investment loans, and general obligation bonds and revenue bonds needs further explanation.
- (5) "Interest-free loans" and their applicability needs further explanation.
- (6) Interest rate variance per loan application needs further explanation.

CONCLUSION:

The successful passage of this bill will, without a doubt, be the greatest economic "shot in the arm" that the State of New Mexico has ever had. A typical example would be southeastern New Mexico's "Monument 49er Railroad" project. This project, its justification and impact on the economic well-being of the State of New Mexico, has been submitted as testimony for the Senate Budget Committee public record. This bill could make that project a reality.

The observations, alluded to above, are minor, in that it is well understood that these would be further clarified in workshops after successful passage of the bill. We respectfully request your continued lobbying efforts regarding S. 532.

WORKING ON RAILROAD SERVICE

Chairman DOMENICI. Mayor, I would be remiss if I did not recognize the presence of your city manager, sitting there behind you, Mr. Joe Harvey. I want to state publicly, in all my work as a Senator, I have not found a city manager who is better at handling the affairs of a community than yours. He has been at it a long time, and your city keeps him and keeps him. I wonder when he is going to get tired. But that is obviously a testimonial to his great skills. He has called to your attention, and I think Congressman Skeen has been made aware of the fact that the Industrial Development Corp. of Lea County has been trying to get rail service to Monument, N. Mex., so as to improve the potential for expanding facilities there and employing a number of people. We are working on it with you all. We hope that by combining various resources and working with the railroads involved that together we will be able to see some progress.

Mayor Fletcher. Senator, I appreciate your comments about our city manager. We are proud of him, and he is a good man.

REVENUE SHARING

Chairman DOMENICI. Let me quickly say, revenue-sharing, as I told the mayors in a meeting today, and the Congressman did, from our standpoint in the Senate, we think revenue-sharing will be reauthorized for 5 years, and that should occur very quickly. I

cannot promise that it will go up, but I can almost commit unequivocally that it will not go down. I am even supporting an extra quarter of revenue sharing in the year 1984, in lieu of some other kinds of funding that might be more restrictive. I am not sure we will get that done, but I can tell you it passed the Senate as part of the jobs bill and was deleted in conference. Those of us who voted for it actually thought the recently passed jobs bill should have started with a new quarter, an extra quarter of revenue sharing on the top, so that every community and county in the country will get a piece of revenue sharing, and then what do we need for the targeted jobs. I remain convinced that that would have been a much better jobs bill, but we did not succeed, and we will keep trying.

PILT, we are going to work on it. It is in jeopardy, but we understand it is tremendously important.

WIPP PROGRAM

One other comment. As far as Eddy County is concerned, WIPP was mentioned. It will be mentioned, I guess, by the distinguished mayor who is here from the city of Carlsbad. But I think it is already a matter of public record that in terms of transportation needs that might be accelerated because of full development of WIPP if that occurs. We have on record in writing commitments from the Secretary of Transportation that they will support funding for that as estimated by the State. I think that is in the neighborhood of \$58 million. We do not need new laws for that. It is just a matter of the timing and getting it phased into an appropriation measure. We see no reason why anyone will renege on that. We will continue to have evaluating sessions with the State to make sure we are on the right track. That certainly is not necessary yet.

Congressman Skeen?

Congressman SKEEN. Thank you, Senator.

HOW WILL STATES ADMINISTER FUNDS

Something that has become apparent to me in listening to your testimony here today, that is of great concern to us in the Congress, is that we understand, too, the apprehension that you folks as community leaders feel toward such things as block grants versus maybe revenue sharing and so on, and I can understand that, and I think that we ought to say it, what is that feeling; that if we completely renovated the system and we did not maintain revenue sharing—which has worked well, and we have all been around at its inception, and it works very well. One of the things that has created a fear is what will the State do to administer these funds, and how well will they do the apportionment necessary of various funds that come directly to the State if they did it in that matter. And we share your concerns in that area. I think you voiced them well, Mayor Fletcher. You said are they going to share with the local communities; how are they going to handle it. Are they going to build a whole new administrative structure to handle the funds, and part of this funding goes for that, and so on.

The thing I would like to ask is, you mentioned what the last legislature did insofar as new sources of funding for cities. How did

this come about? I did not follow it as closely as I should have. How do you view the States' effort through the legislature or through the administration to share with communities or to recognize the fact that one of the biggest problems we have in New Mexico is because so much of the tax base is sucked up by the Federal Government, or by the State of New Mexico and these communities, including political entities such as a county, much less a city, a basis from which to handle the responsibilities that you are charged with.

So I would just like for any of the four of you to give me a little background on what has happened of late with the legislature and how you view the activity and the attention that the communities get from State entities in sharing a revenue base.

John, I think you mentioned it in your testimony. You talked about the three points.

CONCERN IS WITH FAIR DISTRIBUTION

Mayor FLETCHER. Well, Congressman, we are concerned first of all if it comes to the State, we are concerned about equity and priorities in distributing. And we have been pretty dry in southeastern New Mexico for a long time.

Congressman SKEEN. And not just because of the weather.

Pete?

Mayor YORK. Congressman, I think that is a primary concern of all of us is what is the equitable distribution. With revenue sharing, we do not have that problem. I mean, some of us may feel we are not getting what our share is, but we do not say anything, and we are happy with what we get.

I think the legislature this year was good to us in several different areas. Of course, you have been there, and you know what the problems are with a session like we just had. But as far as Roswell itself is concerned, I think we came out real good in the legislature because of our legislative group that was there and because of some lobbying done by local people.

I think the main thing that we would like to thank them for is the opportunity to increase the gross receipts tax by one-half percent. This is after a referendum by the voters. It can be done in quarter of a percent increments, or two quarters at one time.

Congressman SKEEN. They added on to the local referendum base.

Mayor YORK. Yes.

Congressman SKEEN. Excuse me. Go ahead.

Mayor YORK. For Roswell, this means nearly \$2 million a year, which would just be about what we could handle every year as far as our infrastructure problems are concerned. It would all be directed toward sewer and water and drainage and this sort of thing. It would not go into buildings and that sort of thing. It would all be in upgrading our present sewer and water and drainage and streets and so forth. And I think that that is the best thing that they did for us if we can convince the voters that they should tax themselves more so they can accomplish this. And I think that our voters are well enough aware of what our present problem is to go along with it.

Mayor FLETCHER. Mayor York, I think that is a good thought, but if and when that is done, we should protect our smaller communities and villages that do not enjoy a good base of gross receipts tax. They are the ones that should be considered in this and should share in the fortune of that increase, so by some formula that would be fair and equitable to all.

Mr. PAPPAS. Congressman, I think perhaps there were three areas they could get help—one is, of course, the enabling legislation that we just discussed, with the allowance of raising the gross receipts tax by referendum. There were some direct appropriations that were made to specific infrastructure projects throughout the State—it is kind of a Christmas tree package, I guess you would call it—

Congressman SKEEN. Was there equity, in your view, in that—or maybe I should not bring you out on that kind of a limb.

Mr. PAPPAS. It depends on where you live. I think there was, but as the Senator said earlier, you spend those dollars, and they are gone. Even though we need those things, it would be nice to be able to use a revolving approach again. There were things like the mortgage finance authority and those types of things, that go back to your Senate bill again, that I think are the better way of doing it in terms of the future. I think maybe at least those three.

Chairman DOMENICI. Would you yield for a moment?

Congressman SKEEN. Certainly.

ONE-SHOT USE OF REVENUE-SHARING MONEY

Chairman DOMENICI. With reference to the use of general revenue sharing for capital improvements programs, the whole thrust of my concern is that we probably are forcing municipalities through general revenue sharing to make one-shot use of the money rather than being able to finance with a long-term commitment. I do not think any American business could have grown if they had to make cash payments for capital improvements. Because interest has been so high on municipal bonds, and they used to be so marvelous, it seems that if we are using general revenue sharing, we must not be using those to fund any kind of bonded indebtedness; they must be predominantly one-shot investments.

Am I right in that?

Mayor YORK. To me, that would be correct, because it is a situation where you do not know what is going to happen next year, so therefore, you could not indebt yourself for bonds to be paid off in 20 years, when you do not know what sort of income you are going to have through the revenue sharing.

Mayor VALLEJOS. Senator, let me tell you how we use our revenue-sharing. We use it to support our older American program; we use it to help pay street lighting, which is killing us, but there is nothing we can do about it; we have to pay that bill, because from what Community Public Service tells us, we are going to be charged whether we use it or not, because of their investment in our community.

We have gotten pretty used to it. I am sorry to say that, but we have—but we are using it in some very important areas.

Mayor FLETCHER. Senator, I would like to make one last comment. I think the bottom line here is—and it all boils down to this—all the cities and communities in southeast New Mexico are willing to help themselves, but there are areas that in helping themselves, they need help from Federal or State to help keep the things moving. So it amounts to this, if there are any funds available for us to help ourselves, then all we are asking for is equality.:

Congressman SKEEN. Thank you.

PAYMENT IN LIEU OF TAXES BEING ATTACKED

I just want to make one comment, Pete, in connection with this. We talk about revenue sharing, but I still think one thing that we do not want to overlook talking to the people of southeast New Mexico about is the impact of PILT money—and I know that you are talking about communities, but it has an impact on communities, because if you dry the county sources up and you do not fund the counties, who then becomes responsible for the delivery of whatever services are necessary? It is the cities. And I still want to press this idea. A lot of people do not know what PILT means—payment in lieu of taxes. It was generated because we are a very high public land State—38 percent of the land surface of the State, aside from parks and so on, reservations, et cetera, belongs to the Federal Government, and without that tax base in a county, it is extremely difficult to finance county operations, and it is not a giveaway to Western States. I want to keep making that point, because it is a help to our small communities, and we want to fight for it. We were lucky 2 years ago when we had it continued, and Pete has been a tremendous help to us and with the Secretary of the Interior in keeping that program alive.

Now, there is an effort within the Congress, particularly in the House, to kill off payment in lieu of tax money to Western States, because they feel that our revenue generated from mineral production should be prorated back to the various areas and let that pick up the PILT payment. It does not work that way, and we have argued, and if you have a chance to put in a word, why, let folks know like Sid Yates from Illinois that this is not a giveaway. Actually, if we owned that land, if it had been seeded back to the States and back to the counties some years ago, we would probably be generating more than they ever have paid us in PILT payments as local revenue support. So keep putting that pitch in there, and we would appreciate some help from you folks, in letting them know from cities how you feel about payment in lieu of taxes, so that we have our weapon, that it is an important increment in local government support.

Mayor FLETCHER. I think it is a very valuable tool, and with all the problems we have addressed today on behalf of cities, I think we should fight hard to retain a program of that kind that is fair and equitable.

COURT RULES ON PILT

Chairman DOMENICI. We are going to try very hard to get that done. The Congressman is in a body that has a lot more sentiment against it, so we have introduced the bill in the Senate. I think it

will get out of the committee and the Senate quickly. How we can get it through the House, I do not know. The problem we have is that a court has ruled that the definition of "county" includes townships all over the United States. So that is confronting us right now, and if we have to follow that formula, we have wrecked the program. So we are going to try to do that.

I would say, Joe, you are right on. In addition to what you have said, the counties have been very responsible with PILT money, in that where there are very small communities, villages, within a county, they have actually spent PILT money for those smaller communities or relieved them of part of their responsibility with that general revenue-type PILT money, and without it, we are going to have kind of a snowballing effect of problems. New Mexico gets a huge portion of that money. We deserve it, because we have a huge portion of our lands owned by the Federal Government. So we will continue to work on it.

If we did not make your statements part of the record, we will do so now. We very much appreciate your testimony. We are running a little bit late, so we will proceed with the next panel, and we probably will not take the first recess that is contemplated on the schedule.

Thank you all very much.

Congressman SKEEN. Thank you again, gentlemen.

Chairman DOMENICI. Next, we have George White, mayor of the village of Ruidoso; Harold Garcia, mayor of the town of Carrizozo; Walter Gerrells, mayor of the city of Carlsbad; Henry Pacelli, mayor of the city of Alamogordo.

Mayors, we are delighted to have you. We will proceed in the order in which I called you to the table.

George White, mayor of the village of Ruidoso, we are delighted to have you.

Mayor WHITE. Thank you, Mr. Chairman.

STATEMENT OF HON. GEORGE P. WHITE, MAYOR, VILLAGE OF RUIDOSO, N. MEX.

Mayor WHITE. First of all, I would like to thank you and Joe both for your presence today, and in particular for the opportunity to afford us mayors to appear before you and discuss the mutual efforts we all make in meeting the needs of the public we serve. And we people in Ruidoso have a peculiar type of public that we serve, in that we have no manufacturing, no industry—we serve people who come to see us in the form of tourists, which means that the base from which we tax people is very small in comparison to the number of people that we have to serve.

NEED AIRPORT LAND AND MONEY

So we are grateful to you people for appearing here today and hearing our story. Mine is going to be short, sweet and to the point, because there are three particular areas we have a vital interest in, and one of them, I am sure that both of you are familiar with, because you have to fly into our little airport each and every time you come to our community, and you know what a hazardous thing

it is. And you both know that we have been working with you people now for several years in trying to do something about it.

Now, it is going to be a little bit on the touchy side, in that one of the things that we would like to get, not from what you have been mentioning today, but we would like to get some input to some of the university, one in particular, to give us a little land to build an airport—you see, the Senator is smiling, because he understands our problem, and I am sure Congressman Skeen understands our problem, too.

Chairman DOMENICI. That is a little ole' problem, isn't it?

Mayor WHITE. Yes, a little ole' problem.

Congressman SKEEN. And you notice how poker-faced we are about it.

Mayor WHITE. So we are asking for a piece of land, and we are also, of course, then asking for moneys to help us build our airport. So that is one of the major little ole' problems that we have in the village of Ruidoso. Now, we anticipate immediately that we will probably spend around \$14 million to get this underway as far as the airport is concerned. But let me continue on. So much for the airport. It is so familiar to your minds that I am not going to dwell on it, but we would like to discuss it with you personally sometime.

HIGHWAYS

The next thing, of course, would be the highway improvement to get people up there. If you have traveled to the village, you know the problems we have coming up the valley. So we need money to assist in providing relief on our rapidly deteriorating highways. This is a must if we are to survive the highly competitive field of recreation and tourism. We need additional water and sanitary facilities to meet the needs of our rapidly growing community. The village of Ruidoso is bonded to capacity on water and sanitary sewer improvements. This includes general obligation bonds as well as revenue bonds.

WATER PRIME PROBLEM

Had the interest rate been lower on our bond issues that were consummated in the past 2 years, Ruidoso could have received more principal money than paying interest. For example, the village of Ruidoso is faced with selling \$6 million worth of revenue bonds for a voter-approved increase of 1 cent in supplemental gross receipts tax. If these bonds are to be sold on the open market, I imagine the rate of interest would be approximately 10.5 percent over the 20-year life of the bonds. This high rate of interest would amount to approximately one and three-fourths more than the principal received. In other words, for each million borrowed, we would have to pay back \$1,750,000. This is a serious problem, and it is a tremendous burden on our local taxpayers, even though they approved this bond question by a 3-to-1 margin, less than a year ago. Why did they overwhelmingly approve this? Simply because the money is needed to provide an adequate supply of man's basic need—water. This is one of our prime problems within the village of Ruidoso. We are now at a point at which we are saturated with the amount of water that we can now serve the people that now

live in the community. If we do not get more water, we will stop building, and our growth will stop immediately. So one of our prime problems is water. I would like to address this to you very distinctly in help in the form of that particular infrastructure problem.

It is with great emphasis that I endorse and support Senate bill 532, the Public Investment Incentive Act of 1983, and congratulate Senator Domenici for drafting and introducing same. This bill, when approved and made law, would lower the interest rates on the sale of public works type bonds, or possibly do away with any interest, if I read your bill correctly, Senator, thus stretching our tax dollars.

It is without any hesitation on my part and my community that I strongly urge the passage of this tax relief measure, and I thank you very much, both of you, for being here, and thank you for listening to us.

Chairman DOMENICI. Thank you very much, mayor.

Mayor Garcia, of the town of Carrizozo, we welcome you.

Mayor GARCIA. Thank you, Senator, Congressman.

STATEMENT OF HON. HAROLD GARCIA, MAYOR, TOWN OF CARRIZOZO, N. MEX.

Mayor GARCIA. Carrizozo, N. Mex., is the existing county seat of Lincoln County. In years past, we were the hub of Lincoln County's economic activity. In the 1950's and 1960's, we had good economic growth, and we were developing potentials for the future economic growth. Then our economic situation changed. Our country, along with our county, was experiencing an economic recession. The Southern Pacific Railroad terminated Carrizozo as a crew point change. There was decreased military activity in our town. Ruidoso became the new growth center, with increased employment opportunities for our citizenry.

All of these situations contributed to Carrizozo's present economic stagnation.

WATER STORAGE WEAK LINK IN DEVELOPMENT POTENTIAL

In keeping with Governor Anaya's economic development push, the people of Carrizozo have deemed in paramount that our town reestablish its developmental potential, thus increasing its competitiveness for attracting new industry to our area. Carrizozo's attributes would set it aside from towns and cities with as much as twice our population. We have two major State highways crossing at Carrizozo. We have a railhead. We have an airport. We have an industrial park that is not being used. We have water and sewer and electric and gas hookups to it. We have a relatively low tax base. We have available work force. We have a relatively inexpensive land price. And we have available water. The weak link in Carrizozo's chain of incentives to potential industrial developers is our ability to store water. Without the capability to store more than 500,000 gallons of water, Carrizozo would be ineffective in its competitiveness to attract new industry.

At this point in time, we cannot generate the money that it takes to build a storage tank. Senator, your bill 532 will afford us the op-

portunity to more help ourselves, for without the availability of Federal moneys to aid State governments in assisting small towns like Carrizozo, N. Mex., I am afraid that waiting for our turn in line for rapidly depleting State moneys will produce too little, too late, for Carrizozo's competitiveness to attract new industries.

Thank you for the opportunity to testify.

Chairman DOMENICI. Thank you very much.

Mayor, what type of storage would you be using? Would this be a reservoir?

Mayor GARCIA. This would be another 500,000-gallon tank of reservoir. We have the water, we have the pumps to pump it, and we have the people who want to come to Carrizozo, but we just cannot store it; we do not have the money at this point.

Chairman DOMENICI. Have you ever had a UDAG grant in Carrizozo?

Mayor GARCIA. Senator, we are applying for one now, but it is in a motel industry type of endeavor, and we would rather see how that one passes before we try anything else.

Chairman DOMENICI. Sure, that is good.

Mayor Gerrells of Carlsbad, we are delighted to have you.

STATEMENT OF HON. WALTER GERRELLS, MAYOR, CITY OF CARLSBAD, N. MEX.

Mayor GERRELLS. Senator Domenici and Congressman Skeen, it is a pleasure to be here. I do have a written report and will just make a few brief comments, because I know your time is limited.

As Senator Domenici is aware, municipalities in New Mexico are pretty dependent upon the State as far as moneys are concerned and on the act, for the most, under permissive legislation. I sit here before you today, perhaps a little out of tune, saying thanks to the State legislature, thanks to growth in southeast New Mexico, financially, we are in pretty good shape. We are blessed with low taxes, and we have through our part of the gross receipts tax been able to establish most of the programs we feel our citizens need.

I think the EPA funding of wastewater treatment plants has been a good program. There are a few problems. But we have such a plant in place, and it should last our community for the foreseeable future, and the handling of Federal highway funds through the State highway department has been well spent, and I think well allocated.

We look forward, as you indicated, to working with the State highway department on the \$58 million allocated to the State because of the WIPP project, and we also work with our State aviation board and have been able to improve our airport considerably.

We feel that our HUD block grants which we have been fortunate in securing, and also our housing through HUD, would be a little bit better handled if we reinforced our HUD office in New Mexico and not have to work out of Dallas, Tex., or somewhere in a larger area. And, having been on the board of the bureau of outdoor recreation, our land and water conservation funds for 13 years for the State, I hope that this program, which is committed to recreation, will be reinstituted, and I understand there is a possibility.

We think, as our predecessors have testified, as near as possible, funds should be channeled directly to the local governments, and let those local governments be responsible to the people, and if they do not like what they are doing, they can kick them out of office.

PAYMENT IN LIEU OF TAXES PROGRAM

I will tread on a little dangerous ground here with the PILT, knowing that it is not a real strong situation, but will point out the fact that Eddy County receives probably the largest or second-largest allocation or allotment—nearly a million dollars a year. And I am certainly not criticizing our county government, because it is excellent. But they are not geared to serve some basic needs and services for the people in the county, such as recreation, garbage pickup, water and sewer facilities. They historically have not done that, are not doing it now, and will not in the future.

However, 87 percent of the people in the county who enjoy the multiuse of Federal lands where the PILT money comes from live within the boundaries of municipalities, and we as municipalities have to furnish the basic needs that our population calls for and deserves, so naturally, I would entertain in the future some way the municipalities could share in the PILT funds; it would be much more equitable and desirable.

PUBLIC JOBS

We think that if we continue to have high unemployment, we will need some financial assistance on public jobs. We are very concerned about the tax-exempt status of our municipal bonds, and I know both of you gentlemen are working to keep that tax-exempt status, even though there has been a movement underfoot to remove it.

HOUSING FOR THE ELDERLY

We see public housing for the elderly as becoming much more important in the future, jobs for the unemployed, and know that you certainly share that concern. We may be in a fortunate position, even with the high unemployment in Carlsbad, but we feel strongly that with aggressive local leadership and hard work by the people involved, with the State of New Mexico helping and the Federal Government representation like you gentlemen in Washington, that we can do nothing but grow and prosper in the future.

I appreciate the opportunity to take a few minutes of your time.
Chairman DOMENICI. Thank you, Mayor.
Mayor Pacelli, of the city of Alamogordo.

STATEMENT OF HENRY P. PACELLI, MAYOR, CITY OF ALAMOGORDO, N. MEX.

Mayor PACELLI. Thank you, Mr. Chairman. I have a written statement that I will present later.

Senator Domenici and Representative Skeen, I appreciate the opportunity to come before you at this time. Of course, I am the last one on this panel, and many of my remarks echo a lot of the prob-

lems that the others have. So I would like to just highlight some of the problems of Alamogordo.

AREA NEEDS ADEQUATE WATER SUPPLY

As you know, in our part of the country, being in a desert area, water is our life blood, and I think some of the problems of growth, to Alamogordo and the surrounding area to help themselves, we need to get adequate water supply and water sources. Although the funding is quite great, this is where we need some help from the Federal Government.

We tried in the past to get a desalinization plant, because in the Tularosa Basin, there is quite a bit of saline water, and some of the funding was not made available to pursue that area.

Another approach that we are pursuing right now and that we want to thank you both for your help in this area, is to dam up an area and probably put a lake in the Fresnell canyon. A lake would allow the city to store a huge amount of water and not only serve Alamogordo, but also help our surrounding neighbors. A project such as this is basically out of our area, because we are looking at a sum of almost \$35 or \$40 million. A lake would have a significant economic impact on the State because of the tremendous recreational potential, which is now lacking. This will not only help us to support ourselves with the additional revenue, but helps take advantage of some of the things that you are now offering in your new Senate bill.

We have a transmission line problem because much of the water coming into Alamogordo comes probably from Bonita Lake, and we are looking at transmission lines of about 80 miles. Back in 1954 when it was put in, it cost maybe a couple of million dollars, but now, with today's costs and so forth, it would probably be a line we may have to abandon because of the funding to reproduce 80 miles of pipeline.

We also have some processing problems. Alamogordo has water to be filtered and chemically treated. At the present time, the city's capacity is to process 10 million. This, on peak day, is about all we can do. We need to increase that capacity for additional growth. This means that plant capacity would have to be built soon to be able to satisfy the population growth or any industry demand that we may have. I mentioned the distribution problems. Another thing that we do need to pursue is our city streets, and because of lack of funding, we have not been able to successfully address repairing of streets. We tried a couple of times to get support from the people, but as you know, they feel overtaxed, and everything that needs to go to referendum gets thrown back in our faces. Maybe in some of these Federal moneys, there can be some sort of guidelines to the States. We also believe that the more stuff that comes down through the States, I think it can be controlled better locally, because I think the problems of New Mexico are far different than those problems that they have in the Midwest or on the east coast. We need some direction from you as to how they can handle that money because sometimes, too, a lot of this money is based on referendums, and in Alamogordo, we have not been too successful in that area.

PUBLIC SAFETY

We also have some need in our public safety effort for additional ambulance services and also a new fire station. Again, we are looking in an area of about a half a million dollars to get us pretty much up to date.

One thing I would like to add, too, is that in our public safety area, we do not have a separate police department and we do not have a separate fire department. They are cross-trained, so I think we have our money going to the maximum this time, and I do not think we can take from here to give us these additional things.

Senator, I certainly appreciate the effort that you give us and, as I say, some of my other remarks are the same as those that have been expressed further, so I will not expound upon them, and I will submit my report for your records.

Thank you very much for this opportunity.

Chairman DOMENICI. Thank you very much, Mayor.

PREPARED STATEMENT OF HENRY P. PACELLI, MAYOR, CITY OF ALAMOGORDO, N. MEX.

Before the
U.S. Budget Committee Hearing

Honorable Senators:

Thank you for allowing me the privilege of addressing this distinguished body and thank you for bringing your committee to our part of the country. It is my belief that an exchange of ideas between the local governments and Congress will result in a better understanding of the many problems facing the nation's cities. For the most part, the problems facing the large cities are the same for the smaller cities except on a reduced scale.

As in most of the Southwest, the number one problem facing the City of Alamogordo is water. We must be able to provide an adequate supply of good water to satisfy the immediate need; and to provide for future generations. The problem can be divided into the following categories: supply, transmission, processing and distribution.

1. Supply

To insure an adequate supply of potable water for future generations, the city must locate additional supplies now. The city presently enjoys water from sources acquired in the past by wise and far-seeing City Fathers that understood that "water is life." These are ground-water sources and the amount of water is limited and varies with climatic conditions. About the only source left to Alamogordo is to drill deep wells and then process the water by methods such as Reverse Osmosis, Electrodialysis, etc., because of the brackishness of the water. This will be expensive water but since there is no more surface water available, this will have to be the way to go. Another method available to Alamogordo is conservation of existing water resources. This can be accomplished by building storage facilities to allow the city to build up water reserves during low usage periods for the higher use periods. The immediate need is to build a two hundred million gallon reservoir. A much more effective storage method would be to construct a

lake near the source of the available surface water. A lake would allow the city to store a huge amount of water and would serve not only Alamogordo but most of Southern New Mexico. A lake would also have a significant economic impact on the State because of the tremendous recreational potential which is now lacking. Price tag -- \$35,000,000

2. Transmission

When water sources are located at a distance from a city, transmission can be a problem. The City of Alamogordo has an eighty mile pipeline to one source, a ten mile pipeline to another source and a three mile line to a third source. The eighty mile line serves both the City and Holloman Air Force Base. This line is now twenty-nine years old and deteriorating rapidly. The three mile line has been renovated and is in good shape. A portion of the ten mile line has been renovated and the remainder will be undertaken as resources become available. Price tag -- \$4,161,000

3. Processing

In order to meet Federal and State water quality standards, Alamogordo's water has to be filtered and chemically treated. At the present time, the city has the capacity to process 10 million gallons a day which is almost the average peak day consumption in the summer. This means that additional plant capacity will have to be built soon to be able to satisfy population growth or industrial demand. Price tag -- \$2,500,000

4. Distribution

Alamogordo has a distribution system that needs major renovation to adequately handle the demand for residential use and fire protection. The city has undertaken renovation of the water lines in the older sections of the city under the Community Development Program using Department of Housing and Urban Development (HUD) funds. This program has been a godsend to the city in alleviating a serious condition and has provided the people in the older areas of the city

with a water system that provides them adequate water and fire protection. There still remains a large part of the city with deteriorated or inadequately sized water lines.

In order to distribute water effectively, the city is divided into five pressure zones. Each of the zones should be supplied from its own reservoir; however, only two zones have their own reservoir. The other zones are supplied through a system of pressure relief valves and other mechanical means that frequently fail causing water breaks and other problems. This causes residents to be without water and lessens the city's ability to fight fires.

Additional reservoir capacity is needed. Price tag -- \$1,500,000-2,000,000

Other areas of concern to the city are streets, library, public safety, recreation, senior programs, flood control, wastewater, and airport. I will briefly describe Alamogordo's needs in the above areas.

1. Streets

Alamogordo has approximately 200 miles of streets that need serious attention. Some of the streets can still be saved by minor repairs, such as sealing cracks, repairing potholes, and other normal maintenance; however, there are some that will require extensive repairs. Rebuilding streets is very expensive and Alamogordo, like most cities, does not have the resources to do this. Price tag -- \$1,000,000

2. Library

A library is a city's cultural, historical, and educational center. Alamogordo has an excellent library that all of the residents can be proud of. It is now too small and needs to be enlarged to adequately serve the needs of the community. A planned addition has been proposed but a lack of funds has prevented construction. Price tag -- \$1,000,000

3. Public Safety

Public Safety in Alamogordo consists of police, fire, and ambulance services. This also is a very expensive operation because of the highly skilled personnel and the specialized equipment that is used. An example: A fire engine costs \$125,000. Public Safety is very important and there is no way to get by cheap. Because of this, certain items are usually deferred until funds are available. The Department of Public Safety needs a new fire station to serve the newer areas of the city and a new office building to relieve severe over-crowding of the existing facility. Price tag -- \$500,000

4. Recreation

Recreation programs are usually the first to suffer in budget cutbacks and Alamogordos' have been no different. People now demand racquetball courts, tennis courts, fields for baseball, football, soccer, and even rugby. Since the Federal government has gotten out of outdoor recreation it is very difficult for local governments to undertake construction of recreational facilities.

5. Senior Programs

The Congress took a giant step forward when it passed the Older American Act in recognizing that the elderly in the United States deserved a better life in twilight years. I believe that the resulting senior programs, because of the Older American Act, are some of the most cost-effective and rewarding enterprises that have been undertaken as a joint venture by the Federal and Local governments. Funding from the Federal sector needs to be increased to keep up with the growth of the program. One negative aspect of the program that I would like to see reduced or eliminated is the enormous amount of paperwork required. It is absolutely suffocating and unproductive. Money that could better be used in program activity is now used in filling out forms and reports.

6. Flood Control

Protection from flood rates high as an item that is needed by Alamogordo. The levee needed for flood protection is so extensive that were it not for the Corps of Engineers, Alamogordo would be hard pressed to undertake such a project. Even with the Federal Government assuming the larger share of the construction cost, the city's share will strain its resources.

Price tag -- \$12,000,000

7. Wastewater

The wastewater plant construction administered by the Environmental Protection Agency is a tremendous help to cities nationwide. This is a worthwhile program and should not be cut or eliminated as has been proposed. Alamogordo needs to update its wastewater plant and increase the capacity to allow for population growth. Modifications are also needed to be able to process the effluent sufficiently to make it useful for other purposes than agriculture.

Price tag -- \$100,000

8. Airport

The Airport Development Aid Program (ADAP) that was administered by the Federal Aviation Administration (FAA) was a vital and important part of Airport construction for cities. Without it, many existing airports would have never been built and the air transportation industry would never have risen to the position of world leader that it enjoys today.

I believe that it is important for Congress to restore at least some funding to the FAA for airport programs to maintain the quality of our airports.

There are many, many problems facing our nation today and the deteriorating infrastructure of the cities is but one of them. But I believe that this is one problem that by working together can be controlled. I do not expect the Federal Government and Congress to assume all of the problems facing the cities nor do I expect them to expend the entire Federal budget doing it. I believe that a partnership needs to be forged between the Federal, State and local governments and together tackle the problems head on.

Because of the tremendous taxing power of the Federal Government, the taxing power of the states and local governments is limited. The new "Federalism" must recognize this and allow for a more equitable distribution of funds. This new partnership must recognize that generally the local governments are capable of determining their own needs and the best method of satisfying those needs. You must learn to trust us as we trust you. You must not saddle us with needless rules and cost increasing regulations that simply wind up costing the taxpayers more money. Because that is who should have our first consideration--the taxpayer. After all it is all taxpayer money.

Together we can work to "establish justice, insure domestic tranquility provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

Thank You.

Remarks by HENRY P. PACELLI, Mayor

Chairman DOMENICI. Congressman SKEEN, do you have any questions of the mayors?

TAX REFERENDUMS DIFFICULT TO GET PASSED

Congressman SKEEN. Mr. Chairman, I have no questions, but in this area of referendums, which is certainly a peculiar problem in, I think, all of southern, southeastern, and all over New Mexico, probably. One of the problems is how do you get a referendum passed. It is not indigenous just to small communities; it also affects larger ones. El Paso could not get a water bond passed, so they initiated a lawsuit with New Mexico over the water. It was a lot easier to pass than the referendum. I do not know. Maybe someone ought to initiate a course for municipalities on how you get a bond issue passed on this thing.

Mayor GERRELLS. We have never had one fail.

Congressman SKEEN. Well, I think you should be the leader, then.

[Laughter.]

Mayor PACELLI. We also had a referendum fail on a new jail. Now we do not know where to put the people.

Congressman SKEEN. Yes, I know. That is what Ramona was telling us. This bothers me somewhat, and I understand the feeling of a lot of folks because we have taxed, but it was not the local entities where they need the services; the tax was coming from a different direction. And I think that maybe we share some of that re-

sponsibility in the Congress for the attitude of the local people. They know they can control—but it also speaks well for the system. Folks like local control. That is why I think the Senator's bill has a good prospect. It maintains this kind of local control over projects. I think that is absolutely essential, but it is hard to explain to people who have been somewhat overtaxed on the State or national level, particularly the national level, in my opinion.

Mayor PACELLI. But Congressman, with all due respect, we have no tax power, so their being overtaxed is not forced on by us.

Congressman SKEEN. Well, that is what I just said; we did it to you.

I thank you all.

Mayor GERRELLS. Senator, could I set something straight for the record?

Chairman DOMENICI. Of course.

Mayor GERRELLS. I believe there was earlier reference to the gross receipts increase by the State legislature, and that is a negative referendum provision along with that. It is not a referendum—

Congressman SKEEN. Do you mean, if they do not vote it down, it goes into effect, or the reverse?

Mayor GERRELLS. That is right.

Congressman SKEEN. All right. They have to vote it down to keep it—

Mayor GERRELLS. The local governing body can impose it, and if 5 percent of the voters do not present a petition within 60 or 90 days, then it goes into effect.

Congressman SKEEN. Five percent?

Mayor GERRELLS. Yes.

Chairman DOMENICI. With a petition to call a vote.

Mayor GERRELLS. Petition for a referendum.

Congressman SKEEN. I see, OK.

LAKE FEASIBILITY STUDY UNDERWAY

Chairman DOMENICI. Mayor Pacelli, with reference to the lake or reservoir that is necessary, am I not correct that the Federal Government is helping with a feasibility study—no commitment as to what our responsibility or obligation is—but they are doing some preliminary work.

Mayor PACELLI. Yes, because we could not even pursue that far without your help, and the Corps of Engineers and Department of Reclamation are working on the feasibility study at this time.

Chairman DOMENICI. And when is that due?

Mayor PACELLI. I would have to guess at that, Senator; I think it is probably 3 to 5 months down the line.

Chairman DOMENICI. All right.

Congressman SKEEN. Yes, I think they are just beginning to break that down.

Chairman DOMENICI. And that means at that point, you will know whether it is feasible, what it might cost, and then collectively, we might all look at it in terms of how it might be paid for?

Mayor PACELLI. That is right.

Chairman DOMENICI. But obviously, the kind of thing you are speaking of could not be paid for exclusively by the city under any circumstance.

Mayor PACELLI. I doubt it very much, because we are looking at about \$40 million.

Chairman DOMENICI. OK. Thank you very much, mayors.

Congressman SKEEN. I thank all of you.

Chairman DOMENICI. We are going to proceed right ahead.

Our first witness on the next panel will be Judith Espinosa, the Secretary of Transportation for the State of New Mexico. It is a pleasure to have you. Thank you very much for joining us.

STATEMENT OF JUDITH M. ESPINOSA, SECRETARY OF TRANSPORTATION, STATE OF NEW MEXICO

Ms. ESPINOSA. First of all, I would like to thank you for the opportunity of allowing me to be here to present our State considerations regarding the area of transportation infrastructure. In these times of fiscal constraint, I think it is very important that the State and Federal Government try to strengthen cooperation between one another and establish some dialog.

The State department of transportation looks forward to cooperating more with its Federal representatives in the future as to the transportation infrastructure problem and any other concerns that are issues to both the State and Federal Government.

BILL 532 INNOVATIVE APPROACH

Basically, I am pleased to see that Senator Domenici, through Senate bill 532, has recognized that we do have some serious infrastructure problems throughout the country as well as in the State of New Mexico. I think that it is an innovative approach and something that we need to look at very carefully as far as implementing on the State level. I do, however, hope that perhaps your approach will not do away totally with the categorical grant program, since this has established itself and seems to work well, at least in New Mexico.

I would look forward to a program such as that suggested by S. 532, which would complement those programs already ongoing at the State level.

The transportation system, as was mentioned before by another individual who testified here, is necessary for our well-being and daily living activities in this State as well as across the country, and I think that the Federal Government and the States have recognized that through the development of the Interstate Highway System. We also need the transportation infrastructure, whether it be airports or highways, for our civil defense, and it is really important that we maintain and improve all of, on an ongoing basis, that transportation infrastructure.

STATE TRANSPORTATION ENFORCEMENT AGENCY

Just as a general overview of the Department of Transportation at the State level, we do not build the highways of the State, and we do not have the revenues to share with the cities or the counties as far as building of roads and highways. What we do on the

State level is act as an enforcement agency for the State. We enforce the Federal and State and local laws on the highways of our State concerning private individuals in motor vehicles and commercial motor carriers. We assist airports through our aviation division in grant programs which will help them maintain and repair the existing facilities and also provide matching funds for any new airports proposed. We also will be taking over the functions of the State in the area of railroad planning. Mass transit is also under the Department, although in the past it has been done by the highway department of the State.

We collect through our motor carrier laws and through our aviation special fuels, user taxes. All the revenues that are user taxes, essentially, that we tax our industries for the use of our highways and our airport system. New Mexico has a third structure tax in the area of the commercial motor carrier area, which means that we do not depend, as most of the other States, I think, particularly in the East, depend on registration of licensed commercial motor carriers. We depend mostly on our weight-distance taxes to generate our revenues, and we are generating and have been in the past, anywhere from \$89 to \$90 million per year, which goes to the State road fund, which fund then shares with the counties and the cities for their roads.

As far as infrastructure relating to the Department of Transportation, anything that affects the infrastructure and transportation aspects of the State affects us, because we must enforce those regulations. We must collect the user fees. And therefore, your Senate bill is, of course, of very much importance to us because it does speak to the area of user fees.

INFRASTRUCTURE DEFINED

As far as some general comments on the infrastructure, Senator, one of the things I found in reading of the bill and discussing infrastructure with various other individuals, is that I am not quite sure exactly what "infrastructure" is defined as I know it is a very difficult definition. However, let me just pose a couple of questions that I had on the definition.

First of all, are railroads included as infrastructure? While they are a very important part of interstate commerce, they are privately owned. Are we to include those, say, within the purview of public infrastructure systems? In the mass transit area, is this going to be considered part of the transportation infrastructure, although it is not a physical facility? In New Mexico, we have ports of entry. Some other States do have that ports of entry system. However, New Mexico is an essential and vital part of maintaining our transportation infrastructure and our highway structure and maintenance in the State of New Mexico. Would the New Mexico ports of entry system be considered a part of any highway or transportation infrastructure?

As far as other than physical types of facilities included in the definition of infrastructure, I am wondering about whether any supporting systems for the facilities would be part of the infrastructure and therefore, enabling municipalities, counties and the State to borrow money in the infrastructure bank system to facili-

tate and maintain these physical facilities. For instance, if a firehouse were built in our community, would those infrastructure support moneys include money for the fire engines?

Chairman DOMENICI. Let me just read the definition. The term, "public investment project" means:

Physical structures and facilities developed or acquired by public agencies to provide water, waste disposal, resource recovery, transportation, and similar services to facilitate the achievement of environmental and economic objectives and are capable of producing user income as to service debt or loans issued to finance the project.

Ms. ESPINOSA. We would hope that some of those supporting systems can be included in other similar structures.

Chairman DOMENICI. We do not claim any pride of authorship. It is in the development stage. What we have to understand is that the only thing that will make the infrastructure bank approach feasible is that it have capital seed money from at least one source and then it have a continuing source of revenue. The best example I can give you is the waste treatment program of the country. We have now spent \$40 billion, the second largest public works program in our Nation's history, second only to the highway system, and what we did was partially fund—now we are going down with percentages, and we will be down to 60/40 soon, 60 percent Federal and 40 percent non-Federal—and what we have done is we have spent \$40 billion, and we do not have any kind of money left to revolve, yet local entities are debt servicing, and States have committed capital, and communities have committed capital, and it just happens that even in today's tight money, the State that came up with the idea says that we could put all that money in a pool, and we could have a revolving fund lend the money, the user fees would debt service it, and you would end up with an equity pool that would go on for a very, very long period of time.

So I would like to make it very clear, not just because of your questions, Madam Secretary, but it is not going to fit every need. It sure is not going to fit all categorical grant programs. It might not even fit highways. But if it fit \$40 or \$50 billion worth of improvements with \$10 billion worth of seed money and revolving user fees, we might have a very exciting program for capital improvement. So that is what we are experimenting with, and we appreciate your questions and your indication that it is in constant need of refining, and it certainly needs that.

Ms. ESPINOSA. Thank you, Senator.

REHABILITATING EXISTING FACILITIES

One of the things I think probably that has happened all over the country and that I have seen since I have come into this administration in the recent past is the fact that it appears that I think a lot of counties and municipalities have a lot of trouble maintaining and rehabilitating already existing infrastructure facilities that they have. I think that in the Nation as a whole and in New Mexico, we have to address those concerns. With the aviation fund that we have in New Mexico, a lot of those moneys go for that maintenance, and I would hope to see that that could continue and any user fees that could be generated would be dedicated

to that sort of activity, so that our already existing facilities are not deteriorating.

As a State agency involved in the infrastructure with transportation, we hope that the Federal Government would have the State maintain this flexibility in dealing with its regulations and in proposing its own regulations, particularly regarding the use fee. For instance, in the Surface Transportation Assistance Act, I see a little bit of a preemption problem from the Federal Government to the State government. We want to be able in New Mexico to keep our uniqueness as far as being a Southwestern State, with the low population density, but an extensive transportation system, particularly in the area of highways, because we have such a large area in the State to cover. Our user fee, as I mentioned before, is based on that third structure, and hopefully, we will be able to maintain that third structure, because some of the things that work in the smaller States are not going to be good for New Mexico. You will notice that in Arizona, Colorado, Texas, and some of the other Western States, they do have third structure taxes to collect taxes for the use of highways by commercial motor carriers.

USER FEES INTEGRAL PART OF BILL

Concerning specifically Senate bill 532, I would like to point out that user fees are an integral part of that. I think that they have seemed to work well for New Mexico highways as far as generating revenues to put back into the road fund to get to cities and counties. We would hope that some unique ideas can come out of the Senator's legislation as far as maintaining the already existing user fees and also indicating to the States how we can additionally impose user fees. We do want to say, however, that there is so much user fee that we can put on certain projects at the Federal level and at the State level, and we would hope that this revolving fund would be self-supporting, as indicated by you, Senator Domenici, and that there would be no problem of user fee upon user fee being attached at the Federal, State, and local levels.

One of the concerns I have regarding user fees is that we be able to establish a fee particularly in the local communities that will not only pay back the loan and any interest thereon, but that would be sufficient to repay the loan, so that the local communities are not defaulting in that area and that the State is not therefore picking up the tab and therefore the account is going broke. As you know—and I do not have to point out to either one of you, being from New Mexico—local governments now are having—particularly small governments—are the ones who really need assistance in the infrastructure transportation area the most. However, those are some of the communities that are going to be hardest pressed to put additional user fees on their transportation systems and have to pay back any loans to the State. So as this legislation goes through the Senate, I would hope that you would consider some of these comments.

Thank you.

Chairman DOMENICI. Thank you.

TRANSPORTATION DEPARTMENT,
Santa Fe, N. Mex., April 19, 1983.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget
U.S. Senate, Washington, D.C.

DEAR SENATOR DOMENICI: Thank you for your invitation to testify before your Senate Budget hearings in Roswell, March 21, 1983. I very much appreciate your interest in the problems in revitalizing our transportation infrastructure and your efforts toward solutions.

As requested during those hearings I have enclosed a summary of State Aviation Projects listing them in order of priority, inclusive of funding (federal, state, local) for that project. As you will note the Sierra Blanca Airport construction is of the highest priority, and I am now actively working toward solutions to those problems inherent in proceeding with construction.

I would appreciate your accepting the following comments as supplemental to my testimony before your hearing in Roswell.

I am pleased to learn that the infrastructure loan program proposed pursuant to S. 532 is meant to supplement, not replace, the transportation grant programs for which user taxes are now being collected. I had a concern that airports such as Zuni, Reserve or Dulce, where a demonstrated public health need exists but where there is little revenue potential, might be left out if it were not for the present airport aid program.

Although there are many unmet aviation needs, Congress is in a position to help answer these needs by fully appropriating the authorized amounts for both airport construction and airway development. Ample revenue is being generated from user taxes to cover these appropriations and Administrator Helms has stated repeatedly that the Federal Aviation Administration can and will put the money to good use. Such action by Congress will allow timely funding of projects like the reconstruction of Runway 8/26 at Albuquerque International and construction of a new Sierra Blanca Airport. It will further provide for the modernization of the national airway system without the delays we have come to expect from this type of federal program.

I am also enclosing, for your information, the New Mexico Airport System Plan for 1983.¹ Should you have any further questions regarding the enclosed Aviation Projects list and/or the New Mexico Airport System Plan 1983, or if the Department can assist you or your staff on transportation concerns, please do not hesitate to contact me.

Respectfully yours,

JUDITH M. ESPINOSA, *Secretary.*

Enclosures—2.

¹ Retained in the files of the Committee.

A.E. AVIATION PROJECTS ...

PROJECT DESCRIPTION

			\$ X 1,000			
			TOTAL	FED.	STATE	OTHER
			1 P Y	12588.0	7000.0	1000.0
				1000.0	3300.0	1288.0
0010	SIERRA BLANCA AIRPORT CONSTRUCTION -- PHASE I					
001A	FEDERAL FUNDS REQUIRED.					
001B	CONTINGENT ON RESOLUTION OF LAND PROBLEMS WITH					
001C	THE U.S. DEPARTMENT OF INTERIOR.					
001Z						
1990	SANTA TERESA AIRPORT CONSTRUCTION -- PHASE I		1 A Y	1633.3	1470.0	81.6
199A	CONSTRUCT NEW RELIEVER AIRPORT INCLUDING:					
199B	RUNWAY 10/28, CONNECTING TAXIWAY, TURNAROUNDS,					
199C	ACCESS ROAD, APRON, MISC. AND FENCING.					
199Z						
0020	SANTA TERESA AIRPORT CONSTRUCTION -- PHASE II		1 P Y	769.6	692.6	38.5
002A	EXTEND RUNWAY 10/25, EXPAND AND LIGHT APRON, CONSTRUCT					
002B	AND LIGHT PARALLEL TAX-AY.					
002Z						
1910	ROSWELL RUNWAY 3/21 - 360' WIDE RECONSTRUCTION		1 A Y	1049.0	610.0	175.0
191A	CENTER 200 FT R/W AIP ELIGIBLE.					
191B	REST OF R/W PAID BY STATE AND LOCAL.					
191Z						
0040	PORTALES AIRPORT IMPROVEMENTS		1 P N	40.0	0.0	20.0
004A	LAND ACQUISITION.					
004Z						
2000	PORTALES AIRPORT IMPROVEMENTS		1 A N	18.0	0.0	9.0
200A	BURY OVERHEAD POWERLINES.					
200Z						
0110	DERING AIRPORT IMPROVEMENTS		1 P Y	541.0	486.9	27.1
011A	EXTEND AND OVERLAY RUNWAY 8/26.					
011Z						
0080	LOGAN AIRPORT IMPROVEMENTS		1 P N	5.0	0.0	2.5
008A	IMPROVE DRAINAGE AND INSTALL RETROREFLECTIVE MARKERS.					
008Z						
2030	CLOVIS MAINTENANCE		2 A N	98.8	0.0	36.5
203A	RECLAIMITE RUNWAY 3/21 AND TAXIWAYS A AND B,					
203B	CRACKSEAL ALL PAVED SURFACES.					
203Z						
1850	SOCORRO MAINTENANCE		2 I N	47.2	0.0	23.6
185A	RECLAIMITE AND CRACKSEAL.					
185Z						
1950	SILVER CITY-GRANT COUNTY MAINTENANCE		2 A N	9.0	0.0	4.5
195A	RECLAIMITE ALL PAVED SURFACES.					
195Z						
1940	GALLUP AIP PROJECT		2 A Y	440.0	396.0	22.0
194A	OVERLAY PARALLEL TAXIWAY.					
194Z						
0030	SANTA FE MAINTENANCE		2 P N	50.0	0.0	25.0
003A	CRACKSEAL RUNWAYS 2/20 AND 15/33.					
003Z						
1840	DERING MAINTENANCE		2 I N	104.0	0.0	52.0
184A	RECLAIMITE, CRACKSEAL RUNWAY 4/22, TAXIWAY MARKERS,					
184B	FENCING, WEED CONTROL AND HANGER REHABILITATION.					
184Z						
2070	GRANTS-MILAN MAINTENANCE		2 I N	37.0	0.0	33.2
207A	CRACKSEAL, WEED CONTROL, TERMINAL BUILDING MAINTENANCE.					
207Z						

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2110 LORDSBURG MAINTENANCE	2 A N	25.0	0.0	22.5	2.5	0.0	2110
2111 CRACKSEAL AND FOGSEAL RUNWAY 12/30.							
2112 CRACKSEAL AND FOGSEAL RUNWAY 12/30.	2 I N	13.0	0.0	6.5	6.5	0.0	2080
2080 SANTA ROSA MAINTENANCE							
2081 CRACKSEAL AND ASPHALT REJUVENATION ON RUNWAY 8/26.	2 A N	5.0	0.0	2.5	2.5	0.0	2090
2082 CRACKSEAL ON AIRCRAFT PARKING RAMP.							
2090 CALLUP MAINTENANCE	2 I N	5.2	0.0	4.7	0.5	0.0	2100
2091 CRACKSEAL ON AIRCRAFT PARKING RAMP.							
2100 CONCHAS LAKE STATE PARK MAINTENANCE	2 A N	6.7	0.0	3.3	3.4	0.0	2120
2101 CRACKSEAL ALL PAVED SURFACES.							
2102 CRACKSEAL ALL PAVED SURFACES.	2 P N	40.0	0.0	20.0	20.0	0.0	0140
2120 CRACKSEAL VARIOUS AREAS ON RUNWAY.							
2121 CRACKSEAL VARIOUS AREAS ON RUNWAY.	2 N N	600.0	0.0	300.0	300.0	0.0	0060
2122 CRACKSEAL VARIOUS AREAS ON RUNWAY.							
0140 SPRINGER AIRPORT MAINTENANCE	2 N Y	325.0	292.5	16.2	16.2	0.0	0070
0141 CRACKSEAL ALL PAVED SURFACES.							
0142 CRACKSEAL ALL PAVED SURFACES.	2 N N	300.0	0.0	150.0	150.0	0.0	0090
0060 DULCE AIRPORT RECONSTRUCTION							
0061 POSSIBILITY OF BIA FUNDS HELPING WITH LOCAL SHARE.	3 A Y	617.5	555.8	30.8	30.9	0.0	1980
0062							
0063							
0064							
0065							
0070 ESPANOLA AIRPORT IMPROVEMENTS	3 A Y	194.5	175.1	9.7	9.7	0.0	1880
0071 REPAIR AND OVERLAY RUNWAY 16/34.							
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		5 N N	60.0	0.0	30.0	30.0	0.0	004
0220	RESERVE-CATRON COUNTY AIRPORT IMPROVEMENTS							
0220	INSTALL RUNWAY LIGHTING.							
0230	GALLUP AIRPORT IMPROVEMENTS	5 P Y	1017.0	915.3	50.8	50.9	0.0	0230
0230	EXTEND RUNWAY 6/24.							
0240	CLOVIS AIRPORT IMPROVEMENTS	5 N Y	580.0	522.0	29.0	29.0	0.0	0240
0240	EXTEND RUNWAY 3/21.							
0250	CLAYTON AIRPORT IMPROVEMENTS	5 N Y	945.0	850.5	47.2	47.3	0.0	0250
0250	EXTEND RUNWAY 2/20.							
0280	SOCORRO AIRPORT IMPROVEMENTS	5 P Y	531.0	477.9	26.5	26.6	0.0	0280
0280	PAVE CROSSWIND RUNWAY 6/24.							
0290	ZUNI NEW AIRPORT CONSTRUCTION	5 N Y	1500.0	1350.0	75.0	75.0	0.0	0299
0290	NEW SITE TO BE ACQUIRED.							
0300	LAS CRUCES-CRAWFORD AIRPORT IMPROVEMENTS - PHASE 4	6 P Y	1036.0	950.4	52.8	52.8	0.0	0300
0300	CONSTRUCT ACCESS ROAD, NEW HEAVY AIRCRAFT AND ITINERANT							
0300	RAMPS, SECURITY LIGHTING AND SERVICE ROADS.							
0320	ALAMOGORDO AIRPORT IMPROVEMENTS	6 P Y	337.0	303.3	16.8	16.9	0.0	0320
0320	HANGAR AREA TAXIWAY AND ROAD CONSTRUCTION.							
0330	LOCAN-UTE DAM AIRPORT IMPROVEMENTS	6 P N	26.0	0.0	13.0	13.0	0.0	0330
0330	AUTO PARKING AND HANGER AREA CONSTRUCTION.							
0410	ALBUQUERQUE NORTH RELIEVER AIRPORT	6 N Y	6000.0	5400.0	300.0	300.0	0.0	0410
0410	ACQUIRE LAND FOR NEW AIRPORT CONSTRUCTION.							

PRIORITY LEVEL LEGEND
 1. CRITICAL SAFETY
 2. CRITICAL MAINTENANCE
 3. CRITICAL CAPACITY
 4. NONCRITICAL SAFETY
 5. NONCRITICAL MAINTENANCE
 6. NONCRITICAL CAPACITY

PROJECT STATUS LEGEND
 N. NEED - BUT NO POSITIVE ACTION BY SPONSOR.
 P. PLANNED - BUT NO APPLICATION RECEIVED.
 R. APPLICATION RECEIVED.
 A. APPLICATION APPROVED.
 I. CONSTRUCTION IN PROGRESS.
 C. PROJECT COMPLETED BUT NOT CLOSED.

Chairman DOMENICI. Our next witness is Colin McMillan, former State representative. I would ask all four of the remaining witnesses if they would be as expeditious with their testimony as possible. I am afraid we are not going to have enough time for the remaining panel if we do not do that. So if you would do that for us, we would be very appreciative.

Mr. McMillan?

STATEMENT OF COLIN McMILLAN, FORMER NEW MEXICO STATE REPRESENTATIVE

Mr. McMILLAN. Senator, I would be glad to do that.

It is a pleasure for me to be here today, and I appreciate both you and Congressman Skeen asking me to be here. I thought I would limit my remarks to the highway problems, particularly in this part of the State.

I suppose you gentlemen know that the Federal highway tax, the recent increase is going into effect April Fool's Day, and is going to generate \$40 million this year, \$90 million, and according to your paper, \$420 million over the next 4 years. I did not realize it was going to be that good. That is terrific. And you have \$90 million for State highways in ERTA money.

But we do have a number of significant problems in this part of the State. The legislature addressed the truck bypass problem in Chavez County, which is a serious problem that needs to be addressed. All you need to do is ride from the north end of town to the airport and you will find out how bad that one is. My ears perked up when Mayor Gerrells mentioned the WIPP money; a certain truck bypass in Roswell might fit into that.

FEDERAL MATCHING HIGHWAY FUNDS

One thing that I want to spend at least a minute on would be the Highway 70 project. I know that Congressman Skeen is interested in that, because that is the way he gets to and from his house. They are working out there right now. That project in the past has been funded by a 75-percent match of the Federal Government with the interconnect, tying the interstate, tying I-10 to 540. And it is my understanding—and I am not clear on this point—but it is my understanding that this year's budget does not include the 75 percent Federal match on that.

Chairman DOMENICI. You are correct. That was what we called, when the Senator from Texas and I put it in the law, the "priority primary." However, I would say to you that while it is not there defined, the funding for primaries, which can include by definition Highway 70, has been doubled. So there is twice as much money available for primaries, but there is no exclusive definition which would only make Highway 70 in New Mexico one that fits. And we just could not continue it. Senator Bentsen and I got it in because it happens that we both have that kind of primary, but we settled for doubling the amount that can be used for primaries and that can be included.

Mr. McMILLAN. Well, I guess my comment on that, Senator, is I think we would have a better chance of continuing funding of that particular project if we were to continue that 75-percent match.

Chairman DOMENICI. I understand you.

Mr. McMILLAN. I think that that route is critical to the growth of the Pecos Valley, having that route tying in Cruces and Amarillo, and the Interstate System. And I would hope that you gentlemen would look at that particular problem as critical as it is to us in this part of the State.

I mentioned briefly that we have some other highway problems in this area. In the specific location of Southeast Main and Brasher Road, we have had a number of deaths occur at that intersection down there. Interestingly enough, Buddy Hewitt and I, I think 10 years ago, talked about going four-lane there, and we have not got there yet, so maybe the Government with these Federal funds will solve that problem.

I would hope for continuing assistance from the Federal Highway Administration in looking to the needs of our State. I would point out that at this point in time, \$247 million is under contract to the State highway department, and only \$10 million of that is in Chavez County right now, and one of those projects is the one west of town on Highway 70 that, it looks to me, is pretty well wrapped up.

Thank you for the opportunity of being here today.

Chairman DOMENICI. Thank you.

Our next witness is Mr. Smith, president of the New Mexico Transportation Co. We are delighted to have you.

STATEMENT OF ALFRED M. SMITH, PRESIDENT, NEW MEXICO TRANSPORTATION CO., INC.

Mr. SMITH. Thank you, Senator, and thank you, Congressman Skeen.

In addition to my position with the bus company, I am president-elect of the New Mexico Motor Carrier Association and serve on the board of the New Mexico Highway Users' Association. I have been employed by the transportation industry for 17 years.

EXISTENCE OF MOTOR CARRIERS THREATENED

The conditions prevailing in our industry today are unique. The Motor Carrier Act of 1980 and the Surface Transportation Assistance Act of 1982 debilitated the common carrier trucking industry both financially and emotionally. The Bus Regulatory Reform Act of 1982 has just begun to impact the common carrier passenger industry. Due to the previously mentioned bills, this industry is finding itself in a state of frustration that threatens the very existence of the motor carrier industry. Even though a temporary frustration can inflict severe damage to our progress, we are not the kind of people who will long remain frustrated. To paraphrase Winston Churchill, we did not come all this way because we are made of sugar candy. It has been said that the highway users may be the only class of taxpayers in the country who say "Tax me" for better roads. The job now is to see that those who pay the taxes get the good roads they deserve.

Since this hearing is to examine public infrastructure issues and the impact of Federal policies, my comments will center mainly on

the common carrier trucking industry and the Surface Transportation Assistance Act of 1982.

As this bill emerged, you must remember the common carrier trucking industry was still experiencing the birthing pains of the Motor Carrier Act of 1980, which in effect, deregulated the industry. This, coupled with the declining economy, was devastating to the industry, but no more so than what was to follow. In a recently released report, the Highway Users' Federation said that it expected 35 States to propose fuel tax legislation this year. Increases in State motor fuel taxes and other highway users fees will be considered by States desperately needing to raise funds to repair crumbling State and local roads and bridges, as well as to match increased Federal highway funding.

As of March 25, there had been 28 bills introduced into State legislatures to increase either motor fuel taxes or highway user fees. There are still 39 States with legislatures in session, with three more to convene in April. I would not even venture a guess as to how many bills will go into the hopper that will impact on the motor carrier industry.

FACED WITH THE TWO-EDGED SWORD

To summarize the problem visually, please visualize an industry hard hit by recession, in a turmoil due to deregulation, and now faced with the two-edged sword of both increased Federal and State taxes. The picture you get is not one of optimism. To be dramatic, look at the figures. In the previous 2 years, 202 major interstate carriers have gone out of business; 49,000 jobs have been lost; 57 other carriers have either filed for chapter 11 or substantially reduced their service. Many small carriers or owner-operators have simply disappeared.

In the rush to create jobs and fix our Nation's highways and bridges, which we all agree needs to be done, I believe that you have created a situation where vast numbers of the Nation's motor carrier industry will not be able to continue operating profitably. It is an unrealistic assumption to believe that all of these increased taxes can be passed through to the consumer through rate increases.

TAXES INCREASED ASTRONOMICALLY

Under the Surface Transportation Assistance Act of 1982, heavy truck use taxes would increase from \$240 currently to \$1,900 in 1988—nearly an 800-percent increase. This does not even take into account the 5-cent per gallon increase in the fuel tax, the increase in the excise tax on truck tires, nor any State taxes that might be levied.

The heavy truck use tax is not a use tax, because it is not a function of highway use. All heavy trucks will pay the same use tax whether their use is 5,000 miles or 500,000 miles.

As you can see, the problems are many and varied. I am of the opinion that before any major highway legislation is introduced, the following criteria should be used to analyze the effectiveness of the contemplated legislation. Are the funds raised enough to do the job, and are they allocated to do the right thing?

Will all available funds be spent promptly, putting to good use taxes that highway users have already paid?

Will those who pay the taxes get a fair return on their investment?

Does the tax burden fall fairly on the various classes of highway users?

Even though this criterion may be used to analyze the legislation, it still does not solve the problem faced by the motor carrier industry of the double-edged sword. If the Federal Government increases the amount of money available for highway funds through increased motor fuel taxes and user fees, the States, in order to take advantage of the increased money available, must raise their motor fuel taxes and user fees to provide for increased matching funds. The States must also be concerned with their own deteriorating State and local highway system. Therefore, we support the recently introduced Public Investment Incentive Act of 1983.

As pointed out during the introduction of this bill, due to the condition of the national infrastructure, the policymakers are left with two choices. They could increase categorical Federal capital grant and loan programs, which at best would have a limited impact on the vast infrastructure needs. Or, they could begin to make some fundamental changes in how our Federal system provides capital public investments. I believe the second approach is the best of the two, inasmuch as it provides for economic growth through a long-term and permanent commitment of moneys for State infrastructure needs.

This bill, the Public Investment Incentive Act of 1983, and its companion, the Public Investment Taxable Bond Option Act of 1983, which would give State and local governments the option of issuing taxable bonds, worked together in a fiscally responsible way to create the public investment needed for economic growth and jobs. I urge each of you present today to take the time to research these bills and to support them.

In closing, I would like to remind you that my industry, the motor carriers, has been severely impacted by your Federal and State policies throughout the Nation. We are frustrated and have been debilitated both emotionally and financially, yet we say to you—

We want better highways, and if you must increase our user fees, then so be it, but make it a fair and equitable tax based on use. Make sure those that pay the tax get a fair return on their investment and make sure that this industry is allowed to grow and prosper so that we may better serve this great Nation.

As a parting thought, please consider the fact that 486 out of 569 populated communities in New Mexico are totally dependent on trucks and buses for land transportation service.

Thank you.

Chairman DOMENICI. Thank you very much.

SENATE BUDGET COMMITTEE

March 21, 1983

Roswell, NM 88201

ALFRED M. SMITH

My name is Alfred M. Smith and I am President and Chief Executive Officer of New Mexico Transportation Company, Inc., an intercity motor carrier of both passengers and package express. My Company holds both intra and interstate authority and serves Southern New Mexico and portions of West Texas. In addition to my position with the bus company, I am the President-Elect of The New Mexico Motor Carriers Association and serve on the Board of Directors of the New Mexico Highway Users Association. I have been employed in the transportation industry for seventeen (17) years.

The conditions prevailing our industry today are unique. The Motor Carrier Act of 1980 and the Surface Transportation Assistance Act of 1982 debilitated the common carrier trucking industry both financially and emotionally. The Bus Regulatory Reform Act of 1982 has just begun to impact the common carrier passenger industry. Consequently, we find ourselves in a state of frustration that threatens the very existence of the motor carrier industry. Even though a temporary frustration can inflict severe damage to our progress, we are not the kind of people who will long remain frustrated. To paraphrase Winston Churchill, we did not come all this way because we are made of sugar

candy. It has been said that highway users may be the only class of taxpayers in the country who say "Tax me" for better roads. The job now is to see that those who pay the taxes get the good roads they deserve.

Since this hearing is to examine public infrastructure issues and the impact of federal policies, my comments will center mainly on the common carrier trucking industry and the Surface Transportation Assistance Act of 1982. Prior to the November 2, 1982, elections, former Secretary of Transportation Drew Lewis, while seeking support for an increase in the motor fuel tax, had been rebuffed by the administration. The outcome of the elections were interpreted by the Democrats as justification for their economic philosophies, which included job creation programs. The Republicans, in near panic reaction as unemployment reached 10.5 percent, apparently reached the same conclusion. This was a tailor-made situation for Mr. Lewis and in a special session originally called to consider only appropriation bills the Surface Transportation Assistance Act of 1982 emerged.

As this bill emerged, you must remember the common carrier trucking industry was still experiencing the birthing pains from the Motor Carrier Act of 1980 which in effect deregulated the industry to some extent. This coupled with a declining economy was devastating to the industry, but no more so than what was to follow.

In a recently released report the Highway Users Federation says it expects thirty five (35) states to propose fuel tax legislation this year. Increases in state motor-fuel taxes and other highway users fees will be considered by states desperately needing to raise funds to repair crumbling state and local roads and bridges as well as to match increased federal highway funding. As of March 25 there had been twenty-eight (28) bills introduced in State Legislatures to increase either motor fuel taxes or highway user fees. There are still thirty-nine (39) states with legislatures in session with three (3) more to convene in April. I would not even venture a guess as to how many bills will go into the hopper that will impact on the Motor Carrier Industry.

To summarize the problem briefly, please visualize an industry hard hit by the recession, in a turmoil due to deregulation and now faced with the two edged sword of both increased federal and state taxes. The picture you get is not one of optimism. To be dramatic look at the figures:

-) In the two previous years 202 major interstate carriers have gone out of business.
-) 49,000 jobs have been lost.
-) 57 other carriers have either filed for Chapter 11 or substantially reduced service.
-) Many small carriers or owner-operators have simply disappeared.

In the rush to create jobs and fix our nations highways and bridges, which we all agree needs to be done, I believe that

you have created a situation where vast numbers of the nations Motor Carrier Industry will not be able to continue operating profitably. It is an unrealistic assumption to believe that all of these increased taxes can be passed through to the consumer through rate increases. Heavy truck use taxes would increase from \$240.00 currently to \$1,900.00 in 1988- nearly an 800% increase. This does not even take into account the five (5) cents per gallon increase in the fuel tax, the increase in excise taxes on truck tires or any increased taxes levied by the states. The heavy truck use tax is not a "use" tax because it is not a function of highway use- all heavy trucks will pay the same use tax whether their use is 5,000 miles or 500,000 miles.

As you can see the problems are many and varied. I am of the opinion that before any major highway legislation is introduced the following criterion should be used to analyze the effectiveness of the contemplated legislation:

- 1) Are the funds raised enough to do the job and are they allocated to the right things?

In the case of the Surface Transportation Assistance Act of 1982 the yield over the next four (4) years is estimated to be fifty-five (\$55) billion. The Highway Users Federation has calculated that the total funds needed to carry out a reasonable federal road program for the next four (4) years is about fifty-nine (\$59)

billion, not much over what the Act provides. Most everyone agrees with the Legislation's main goals of completing and refurbishing the Interstate System, improving primary roads, repairing bridges and upgrading safety.

- 2) Will all available funds be spent promptly, putting to good use taxes that highway users have already paid?

The current Highway Trust Fund balance of nine (\$9) billion is, in my opinion, about three times the level needed for sound fiscal management. Whether or not the balance will be drawn down over the next year or two depends largely on the kinds of projects the states contract out.

- 3) Will those who pay the taxes get a fair return on their investment?

I am not convinced the Act passes this test. Contained in the Act is a provision to set up a Mass Transit Account within the Highway Trust Fund. One fifth of the new motor fuel tax is earmarked for this account. Also highway-user payments are diluted by substituting Highway Trust Fund Revenues for General Funds previously used for road programs of low national transportation significance.

- 4) Does the tax burden fall fairly on the various classes or highway users?

The answer is - No. As pointed out previously, the heavy truck operator that uses the highway for 5,000 miles will be taxed the same as the operator that uses the highway for 500,000 miles.

Even though this criterion may be used to analyze the legislation it still does not solve the problem faced by the Motor Carrier Industry of the double edged sword. If the Federal Government increases the amount of money available for highway funds through increased motor fuel taxes and user fees, the states, in order to take advantage of the increase money available, must raise their motor fuel taxes and user fees to provide for increased matching funds. The states must also be concerned with their own deteriorating state and local highway system. Therefore, we support the recently introduced Public Investment Incentive Act of 1983.

As pointed out during the introduction of this Bill, due to the condition of the National Infrastructure, the policy makers are left with two choices. They could increase categorical Federal capital grant and loan programs, which at best, would have a limited impact on the vast infrastructure needs, or they could begin to make some fundamental changes in how our federal system provides capital public investments. I believe the second approach is the best of two inasmuch as it provides for economic growth through a long term and permanent

commitment of moneys for state infrastructure needs.

Simply stated, the Bill would authorize the allocation of funds to States that establish an Infrastructure Bank, or other comparable financial mechanism, that would then use the funds as equity capital to make loans to governmental units for public investment projects. These projects must be the physical structures and facilities developed or acquired by public agencies to provide water, waste disposal, resource recovery, transportation, and similar services to facilitate the achievement of social, environmental and economic objectives and they must be capable of producing user income to service the debt or loan issued to finance the project.

This Bill, the Public Investment Incentive Act of 1983, and its companion, the Public Investment Taxable Bond Option Act of 1983, which would give State and local Governments the option of issuing taxable bonds, work together in a fiscally responsible way to create the public investment needed for economic growth and jobs. I urge each of you present today to take the time to research these bills and to support them.

In closing, I would like to remind you that my industry, the Motor Carriers, has been severely impacted by your Federal and State policies throughout the nation. We are frustrated and have been debilitated both emotionally and financially,

yet, we still say to you "We want better highways - and if you must increase our user fees then so be it - but - make it a fair and equitable tax based on use, make sure those that pay the tax get a fair return on their investment and make sure that this industry is allowed to grow and prosper so that we may better serve this great nation."

As a parting thought, please consider the fact that 486 out of the 569 populated communities in New Mexico are totally dependent on trucks and buses for land transportation service.

Thank you.

ALTERNATIVE TAXES BEING CONSIDERED

Chairman DOMENICI. Mr. Smith, I will just ask this one question. In lieu of the fixed rate schedule that was expanded upon in the Transportation Act—it existed before, but expanded upon—do you think a straight additional fuel tax for the truckers and trucks would be more equitable than the fixed rate?

Mr. SMITH. Yes, sir, I do, and I think that bill has already been introduced.

Chairman DOMENICI. That is correct.

We find that we have some very peculiar problems in New Mexico, aside from those that you have discussed. We tried to exempt certain numbers of miles because we have a lot of off-highway use. We have some truckers who are off the highway doing energy work, and then they come onto the highway, and the theory of any tax is the use of the highway. So, if somebody says, "Let's tax the fuel"—and the reason I ask the question is—are we not then going to have to be rational, exempt the fuel tax for the off-road use?

Mr. SMITH. Yes, I think you will, but I think also, you have some problems in the off-the-road use, and I know it has been reported in the past that some of the off-the-road users have been using those tanks to fill their trucks that were being used on the highways, also.

Chairman DOMENICI. Well, in any event, I want you to know we are looking at some alternatives to the new tax, but I do not want to leave the record void of the counterargument.

Congressman SKEEN. You can certainly be sure that no rancher does that.

Chairman DOMENICI. There is an exemption in this for ranchers, too. They will not have to put it anywhere else. If they can exempt their own, that should be enough. But anyway, you know there is the major study that the Department of Transportation did before

those taxes were put on, with reference to the portion of both the cost and the maintenance that is attributable to the trucking industry. I assume your association disagrees with the findings?

Mr. SMITH. Yes, sir, because after the study was done, I think it was 2 days later, the major legislation was introduced, without taking into consideration any of the public input or any of the industry output that had gone into the study.

Chairman DOMENICI. Thank you.

Tim, we are delighted to have you.

STATEMENT OF HON. TIMOTHY JENNINGS, NEW MEXICO STATE SENATOR

Mr. JENNINGS. Senator, thank you. It is always a pleasure to appear before one of your committees, and I thank you for having us appear last January in Albuquerque before your education panel on math and sciences.

Senator and fellow sheepherder, and Congressman Skeen, there are two basic areas I would like to cover today. One is how Federal policies impact the State in infrastructure-related areas, and the other is just my reactions to Senate bill 532.

COMMUNITY BYPASSES NEEDED

The first item—and Mayor Gerrells will probably holler a little bit—but the present WIPP funding for the roads and existing haul routes. Basically, we have \$58 million. It can go anywhere on the highways as long as it is an established route. Well, it is unfortunate for New Mexico and a lot of the communities along the way, when you look at their haul routes that go from Denver to Carlsbad, basically, and El Paso to Hobbs on 62 and 180, and 285 where they go down through Taos, none of the communities, basically, on the haul routes have an existing bypass, so we have communities like Taos, Hobbs, Los Alamos, Carlsbad, Artesia, and Roswell, all with the need for some kind of a bypass. On the realistic side, as political creatures, which I think we all are, the real battle is not going to be fought about a truck going through Mesa. Frankly, there is one little gas station in Mesa, but when they start bringing those trucks through downtown Roswell, that is where the battle is going to be. That is where your people are going to rise up in arms. And yet, no one has addressed this problem.

INSURANCE EXCLUSION FOR NUCLEAR ACCIDENTS

It is hard for me to tell my constituents and voters that there is nothing to worry about because these trucks have only low-level waste. That will not make any difference because in virtually every insurance contract that these people sign, there is an exclusion for nuclear accidents. So it is kind of hard on the one hand to tell them it will not make any difference and then tell them their insurance policy is not worth a hoot either. It creates some problems there in being able to explain that to your constituents.

To go on down the road a little bit, we look at our primary roads in New Mexico. Approximately 34 percent of New Mexico's primary roads are deficient. We can go along to the interstate, where

approximately 20 percent of our roads are deficient, and they are already exceeding their design allotment.

Then, we jump right on down to our county roads, and they are a whopping 66 percent deficient. You know, this is over the whole State, so you can see we are really beginning to have a large problem. Then we turn around, and what is the first thing we hear again—and I happened to be a Commissioner when PILT was started—and now they are going to cut it out. Well, I agree with Congressman Skeen that those are merely funds that were payment in lieu of taxes, exactly what they are stated, and if the Government is not willing to give us that, they ought to give us the land back, one or the other. I think if we are going to have Federal lands in the State, then someone has to realize the burdens for those, rather than the individual property tax owners and payers in the State of New Mexico.

When you look at fire protection out on the range—who in the heck is ever going to call the BLM when there is a fire out on the range? They are going to call their local fire station out there, whether it be Penasco, Duncan, Hondo, or whoever it is going to be, and those will be the folks who are going to go out and fix that. And how are they funded? Those people are backed by insurance money, premiums paid into the State, and they come out of the insurance funds and through State contributions. This is where we are really getting in a box on the PILT money, plus all the roads that go through the Federal lands are paid for by the taxpayer, again, the person who pays the property tax on the deed of the property.

DOMENICI THANKED FOR HELP

To continue a little bit, Senator Domenici, we cannot thank you enough for going to bat for New Mexico and restoring the \$30 million last year to our highway department. Those funds have just helped us—it is almost hard to ascertain how much they have helped us, because of the \$24 million that we put in of State funds in an overlay project, the county co-op, which was 60/40—60 percent State, 40 percent local—another \$6 million that we used; school bus routes is \$3 million, and that is 100 percent State funding; municipal arterial programs is another \$5 million, and that is 75 percent State funded. We can go on—there are about \$30 million more of projects we could go on and go through.

Then we go on and we look down at U.S. 70. Like Representative McMillan, I share the concern of the removal of that from the funding process. I am glad to know that you have doubled the other funds, but realistically, we are still fighting between two States, and I know it would be hard for you to push special primary routes through, but now we are going to be fighting among 50 for double the amount of funds, and somewhere along the line, it gets pretty hard to fight when you get down to our population level, and the number of representatives we have in Congress—and I will agree they are good, but—

Congressman SKEEN. Thank you. [Laughter].

Mr. JENNINGS [continuing]. Unfortunately, Congressman Skeen does not get on the TV as much as Tip.

HIGHWAY 70 PROGRAM SHOULD BE MOVED AHEAD EARLIER

Chairman DOMENICI. Let me tell you, though, what you ought to be doing. Seventy is on the State program in terms of priorities, 5, 6 years out. I would assume that is predicated upon funds available before we double the available primary moneys. There is no competition for that. That is New Mexico's allocation. So it seems to me that you ought to begin working on the highway commission, see why you cannot move 70 up a little in priorities since there are more funds for primaries than was contemplated when that 10-year plan was developed.

Now, I am not suggesting that I call the shots or that you do, but I think there was just no way to continue in the new bill what was indeed a very special kind of road for two States, but we did not fare too bad in the new formula for primaries. Maybe we can ask Buddy in a minute, he may or may not have the answers. He may be noncommittal. But he does not run the highway commission, I understand, so we will ask him.

I think your observation is legitimate. I would just explain to you that we cannot do the other, and I am sorry.

Mr. JENNINGS. I realize the political realities. Just the bypass, and what it would mean industrially to our community. It means a lot. Just to even get in and out of Roswell is something that is really going to be very difficult to do. We go on down, and one of our greatest hindrances or handicaps to attracting new industry is the lack of any kind of competent air traffic. Air Midwest, our little regional carrier, is great. But when they charge you \$107 to go to Albuquerque, and it is \$15 on Mr. Smith's bus, now, even I can take the \$15, because it is not worth the \$107 to go to Albuquerque—no offense. [Laughter.]

But the costs are just not economical on the little carriers. And coupled with that, we have no air freight service, which is very vital. When you get an industry like TMC out here, if they have a car that breaks down, and you have to send it on UPS or something, it will never get here.

With that, I will leave it there and go to the specific bill, Senate bill 532.

SECTIONS OF BILL 532 REVIEWED

Section 103, item (4), the term, "public investment projects," which includes the physical structures that can be used as long as they are producing user income. To me, infrastructure contains roads as well as storm sewers which, in this day and time, will never be income-producing structures or facilities. I think that somewhere along the line, maybe we can come along and allow the cities or communities to pledge revenue to retire the bonds. That might be a reasonable approach but that is something that is certainly just as important to developing downtown Roswell. That is why we do not have any secondary streets because we cannot have storm sewers in Roswell until we pass the bond issue for storm sewers, and when we do that, then the highway department will come in and help us with secondary streets.

The second item was in section 202. I believe that section 202 is basically in keeping with the attitude expressed in the legislature

with regard to a bill that I sponsored in behalf of the city of Roswell for infrastructure improvements, and that was basically that I applaud your efforts; you help us, and together, we will help each other help ourselves. I think that is the basic attitude in section 202. If you give us the means, we will do our best to solve it with local and Federal help. Senate bill 146 basically would just allow the cities to increase up to a half a percent the gross receipts tax for infrastructure improvements. There was very little opposition to that bill in the legislature. I was amazed. I think there were 14 votes in the House, and I think it was 33 to 6 in the Senate, which is unheard of for any kind of increase in gross receipts tax, in my opinion, in my 5 years in the legislature.

LIMIT PARTICIPATION OF MUNICIPALITIES BY POPULATION

Section 203 is kind of dear to my heart. The formula devised to distribute these funds—I thought it was kind of funny that whoever devises the formula, it will be put into effect unless both Houses override it. I think that sure explains the difference in each House. But I think there should be a limit on the size of the communities that may qualify for these funds, my basic reason being that when we go a larger community, I picked the limit of \$100,000—and it might be a little selfish to leave Albuquerque out, and in another year or two, it might leave Las Cruces out. But once a community reaches what I consider to be the magic number of \$100,000 or \$150,000, they have enough people together in one central area that they can actually take on bigger projects, as opposed to in a smaller community, when we try to develop a Roswell, or a Carlsbad, or Alamogordo, when we try to develop any kind of infrastructure to attract industry, you do not really have a large enough base to pay for a meatpacking plant to come back into Roswell. The amount of money it would cost to equip our sewer plant to take care of the effluent, say, if Glover Packing came back, is just unheard of, it just costs so much money.

Then also, along with the formula, if we sit there, and we take \$10 billion, and we take New Mexico's one-half of 1 percent, we will get \$50 million out of that whole \$10 billion, if my mathematics is right, which I hope it is. But when you sit there and look—and granted, if that money were used just to lower the interest rates, it would go a little further. But between now and 1990, which is 6½ years away, Roswell alone has approximately \$48 million worth of projected public works needs, and that is basically nothing more than a few streets and sewer and water problems. That is \$48 million for Roswell alone. And yet, we are going to have \$50 million for the whole State.

To me, if we do not limit the scope of this act to the smaller communities, we are going to have a hard time ever having a big enough act to solve all the needs of a community. And I am really not sure that to build a plant that works for Roswell and complies with all the Federal guidelines that it is going to cost that much less than a plant to deal with Albuquerque's problems.

In closing, I feel that industrial development or business entrepreneurship is dependent upon four factors. Three of them we have already heard about, and those are land, labor, and capital. But the

fourth is infrastructure, and that is basically the framework of the transportation of utilities and community facilities, without which today's business cannot be developed.

I would like to compliment the Senator and the rest of the sponsors on Senate bill 532. I think it will help our communities develop sound infrastructure. With that, they will be able to enhance an orderly development of industry in their communities.

With that, I would like to thank you.

Senator DOMENICI. Thank you Tim.

TIMOTHY Z. JENNINGS
D-CHAVES-52
Mailing Address:
P.O. BOX 1797
ROSWELL, NEW MEXICO 88202-1797
Home Address:
1107 N. KENTUCKY
ROSWELL, NEW MEXICO 88201
Business Telephone:
623-8331
Home Telephone:
623-9378



New Mexico State Senate
Santa Fe

COMMITTEES:
Chairman:
EDUCATION
Member:
CONSERVATION

How Federal policies impact state and local investment projects

1. WIPP presently funded 58 million for existing haul routes

(a) Need for more dollars to bypass the local communities (i.e.) Taos, Hobbs, Los Alamos, Carlsbad, Artesia and Roswell. The real battle will take place on the local level when the radioactive waste is taken through a community

(i) Although this is supposed to be very low level waste as a politician I have a hard time realizing why all insurance policies have an exclusion for nuclear accidents.

2. Primary Roads 34% deficient, Interstate Roads 20% deficient (exceeds design life), County Roads 66% deficient

(a) Now we hear they want to cut payments in lieu of taxes which helps our counties service areas of New Mexico owned by the federal government yet maintained by the counties.

Senator Domencici, we in New Mexico can't thank you enough for going to bat for us in restoring \$30 million to our Highway Department. The return of the federal money helps New Mexico attempt to maintain adequate highways. The state currently funds these programs:

(i) Highway Overlay program	\$24 Million
100% State funded	
County Coop Programs	\$ 6 Million
60% State & 40% locally funded	
School Bus Routes	\$ 3 Million
100% State funded	
Municipal Arterial Program	\$ 5 Million
75% State and 25% locally funded	

(b) U. S. 70 Funding (Amarillo - Las Cruces) This project connecting Interstates 40, 25 and 10 originally was estimated to cost \$300 Million. To date approximately \$46 Million has been spent and the project has been removed from the federal program. This means that this highway will have to compete with all state projects in New Mexico for an average of \$17 Million in New Mexico Highway funds.

3. Roswell has found one of the greatest stumbling blocks to attracting new industry to be the lack of adequate air service. Our air service to Albuquerque is up to \$107.00 one way with increases coming every two months as opposed to bus travel at \$15.00. We have no air freight service, that hinders any type of manufacturing process that employ large numbers of people because they can't get repair parts.

S.532

These are my specific concerns with Senate Bill 532:

1. Section 103 item (4) the term "public investment projects" means the physical structures and facilities developed or acquired by public agencies to provide water, waste disposal, resource recovery, transportation, and similar services to facilitate the achievement of common social, environmental, and economic objectives, and are capable of producing user income to service debt or loans issued to finance the project. There are several items that I consider to be infrastructure (roads, and storm sewers) which this section would not apply to because they do not generate user income.

2. Section 202 is in keeping with the attitude expressed in the New Mexico Legislature's passage of Senate Bill 146 which allows municipalities to increase the gross receipts tax one-half cent for infrastructure projects.

3. Section 203 The formula devised to distribute these funds should be studied carefully.

(a) There should be a population limit on the size of the community that may qualify under this act. I feel the limit should be around a 100,000 people.

(b) With New Mexico having approximately one-half of one percent of the population of the United States one can readily see that a formula based on population will never benefit small communities. One-half of one percent of ten billion dollars is fifty million dollars. Roswell's projected public works needs to 1990 is approximately forty eight million dollars.

In closing, I feel industrial development or business entrepreneurship is dependent upon four factors:

1. land
2. labor
3. capital
4. infrastructure - the basic underlying framework of transportation, utilities and community facilities without which today's business would be stymied.

I would like to compliment the sponsors of Senate Bill 532 which will help our communities and develop sound infrastructure and enhance the orderly development of industry in our communities.

Timothy J. Jorgensen

FORMULA FAVORABLE TO NEW MEXICO

Chairman DOMENICI. Incidentally, Tim, the final draft does not have the one-half of 1 percent, but I really cannot take the whole afternoon talking about the bill. Let me just suggest to you even if it did, it might startle you to know that the only way we got a reasonable share of the highway trust fund money was to insist that no State get less than one-half of 1 percent, because when you look out at an equitable distribution, States like ours would get less. So we preserved our financial base in terms of the entire highway system by having about six or seven States, in lieu of what they would get under the formula that the rest of the States were under, we protected them with the one-half of 1 percent. But that is not in the bill.

ELIMINATION OF USER FEES BEING CONSIDERED

Let me just say, so we will understand, that this whole approach is nothing more than an experiment and another way to finance, as contrasted with old ways of using singularly targeted categorical grant outlays. It is not intended to cover everything, and it is only an experiment in the new method. And right up front, it is going to have to end up with a financeable transaction. We are thinking of eliminating user fees and maybe making some other add-ons to it—not eliminating it, but broadening it—so long as there is a financeable commitment, it would not matter if it is user fees or not. In that context, we have learned since we introduced it.

Let us proceed, then, with Mr. Hewett from the State highway department.

**STATEMENT OF BUDDY HEWETT, DISTRICT HIGHWAY ENGINEER,
NEW MEXICO STATE HIGHWAY DEPARTMENT**

Mr. HEWETT. Thank you, Senator Domenici and Congressman Skeen. If my throat holds out, I will make this very brief. I am suffering from a sore throat, so please, bear with me. I brought a backup hitter for me, Tony Gonzales, in case I fall through, so he can take my place.

My name is Buddy Hewett. I am a district highway engineer for district 2, which encompasses the southeast quarter of the State of New Mexico. I want to thank you for affording me the opportunity to appear before you today to discuss the impact of Federal policies on New Mexico's transportation network, particularly highways and bridges in the eastern half of our State.

Until recently, I served for approximately 3 years as cabinet secretary and chief highway administrator for the Governor and the New Mexico State Highway Department. In that capacity, I had the opportunity to work closely with members of our congressional delegation and their staffs, ASHTO and WASHTO officials, FHWA, and Federal Department of Transportation officials, in a common effort to find some means to halt or at least slow down the ever-increasing rate of deterioration of our State's highways and our bridges.

I can tell you that through the efforts of Senator Domenici, Congressman Skeen, and other members of our congressional delegation in the last fiscal year, the State of New Mexico, as has been referred to earlier, has been able to recoup some \$30 million in highway funding that otherwise would have been denied by application of the formula which determined the obligation ceiling for our State.

The recent congressional action which provided the long overdue gasoline tax increase will lend further support to our efforts in upgrading New Mexico's highways and bridges. However, it must be recognized that with the aforementioned increases in Federal funding, the State must provide matching funds in the form of earmarked revenues and special appropriation by the legislature, if we are to take full advantage of available Federal funds and to fund those projects which are not eligible for Federal funds.

HIGH-VOLUME, HEAVY COMMERCIAL VEHICLES

The State highway department has approximately 12,000 miles of highways on its system, to maintain a level of services that would assure safe and efficient transport of goods and services for our citizens. In the eastern half of our State alone, our highways must provide such services to high volume heavy commercial vehicles which are associated with extraction of vital energy projects—such as oil, gas, CO₂, and petroleum-related byproducts and services.

Discovery and development of natural gas resources north of Roswell this past year has had a devastating effect on all primary system roads within the areas served by drilling companies, oil and gas well servicing companies and pipeline transmission companies, to name just a few. In that increased heavy truck traffic and severe weather over the past 6 months, have combined to literally tear

these roads apart, as evidenced, if you have driven them—and I think, Senator Domenici, some of your staff did drive U.S. 385 down here—the deterioration is evidenced very well on 285 north of Roswell, most severely, the 50 miles immediately north of us. U.S. 82 between Lovington and Artesia—and I think our new commissioner, Commissioner Lee, can attest to the state of that road. It is in terrible shape. And U.S. 70 from Roswell to Elida, not to mention west of here, is another area of U.S. 70.

LARGE PART OF PRIMARY HIGHWAYS DEFICIENT

Since U.S. 385 is the No. 1 priority for funding improvement on designated haul routes to the WIPP site near Carlsbad, as indicated in the stipulated agreement between the State of New Mexico and DOE, I would urge this committee to take necessary steps to speed up the appropriation funds that will enable the department to proceed as quickly as possible with rehabilitation of U.S. 285 and other routes in eastern New Mexico which are designated as WIPP haul routes. This will provide some measure of relief to what I consider to be an imminent threat not only to the economic well-being of our entire State, but also the safety of the traveling public. As discussed in the full text of my testimony, submitted for the record, the percent of deficient miles of roadway in the State on the primary system was reduced from 50 percent in 1973 to 34 percent in 1983. However, there are 1,372 miles remaining as deficient out of a total of 4,267 miles on the primary system alone. Although we feel this is a substantial accomplishment, and that it is due to the foresight and the generosity of the State legislature, which has provided funds through special appropriations to assist us in reversing the trend, it is increasingly apparent that we are faced with a problem of enormous fiscal proportions. A preliminary highway needs study recently completed by this department indicates that approximately \$6.4 billion will be needed over the next 25 years just to bring the total State system—that is, the 12,000 miles—up to a maintainable standard level of service.

Chairman DOMENICI. How much was that?

Mr. HEWETT. \$6.4 billion. That projection is assuming that annual funding is available to meet current repair needs, plus all roads on the system that will come to need repairs annually over the next 25 years.

"MAINTAINABLE STANDARD LEVEL OF SERVICE"

Mr. Chairman, the wording I have used, "maintainable standard level of service," means that no improvements to a higher design level of service than now exists will be accomplished. It would be a no-frills improvement, and in some cases involving reconstruction, there could be a permissible lowering of the current design standards. The bleak picture that this depicts for New Mexico's road transportation system is by no means unique to our State. I am sure that all of you, more than I, are aware of what has been referred to as a national disgrace, the crumbling of the Nation's highways, water and sewerage disposal systems, and other public works capital investment facilities. Although New Mexico's needs over the next 25 years may seem to be but a small part of an esti-

mated trillion dollar nationwide need, we in this State are just as concerned with this issue as any other State which must depend upon its transportation system for economic survival.

Mr. Chairman, I have attached to this presentation additional information which will provide this committee with statistics and other data which I trust you will find useful in seeking a solution to our dilemma, and I would ask that that be also included for the record.

Chairman DOMENICI. It will be so.

FUTURE PLANNING MUST BE ABLE TO RELY ON CONSISTENT FUNDING

Mr. HEWETT. Critical to that solution is a recognition by Congress and the administration that in order for a State to properly plan far enough in advance of construction, it must be able to rely on future years' apportionments in each funding category. Over the last 3 years, Federal highway funding legislation has left much to be desired in that respect. Reliable projections of Federal funding have been as short as 3 months in advance of actual legislation, which established funding levels for the remainder of that fiscal year. Such unpredictable revenue projections necessitates last minute changes in programs in order to take maximum advantage of available Federal dollars in each category, with corresponding shifting and changing of plans for utilization of State money. It takes no great imagination to realize what effect this has on the State highway department's credibility when appearing before the legislature with its annual budget request.

The need for a long-range plan for highway improvements is more evident now than ever before, and in order to meet that commitment, we must be able to depend on a multiyear highway funding bill which also establishes obligation ceilings that allow maximum utilization of unobligated bonds in our apportionment policy.

Mr. Chairman, this concludes my remarks, and I want to thank you again for allowing me to appear before you. I would be happy to try to answer any questions you might have.

Chairman DOMENICI. Thank you very much.

I think you are correct, Mr. Hewett, we have to build more consistency. I think the new bill did that. I think we are going to look to 4 years, at least as far as surface transportation of funding as described in it. I also think you know that for the remainder of 1983, in addition to the \$30 million you spoke of and that Representative Jennings spoke of, we did put in that appropriation measure where we picked up the extra money that lapsed funds that go back to the national pot are to be reallocated to those States, and then we defined them such that we are included. So I am hopeful that come that reallocation time, we will pick up some more, because many States do not meet their commitments in terms of allocating, and we ought to get a first shot at it.

In Farmington, incidentally, the administrator indicated that he understood that language well, and that New Mexico would get an add-on from that lapsed money. So we look forward to a couple of good years—4, at least—of consistent funding, and I think you are correct that we really need that.

Congressman Skeen?

34 PERCENT OF PRIMARY HIGHWAYS DEFICIENT

Congressman SKEEN. Thank you, Mr. Chairman. I just want to ask one question, and I know it is in the record, but give me that figure again, the deficiency in 1973 and the change in it. I think you both alluded to it.

Mr. HEWETT. Right. The record we have traced, and the supplemental information I have given you, goes back to 1963, but in 1973, we had peaked out at about 55.5 percent deficient in our highway mileage. That has been reduced in the past 10 years to 34.3 percent. Now, that is on the primary system alone. That does not take into account the interstate figures or the secondary figures.

Chairman DOMENICI. Thank you very much.

Congressman SKEEN. I think they were both consistent with one another, but that was a very interesting and, I think, indicative statistic, because we have been gravely concerned that we were going backward instead of forward, and we have made some progress.

Mr. HEWETT. Mr. Chairman and Congressman, another thing which might need to be pointed out is that during this same time period, particularly in the last freeze, the legislature has provided additional funds to the department to keep its long-range 5-year program going. The department's construction program right now, while it has increased some \$56 to \$76 million in 1979 and 1980 to a \$195 million program right now, and I think that is clear evidence that both Federal and State funding have been very beneficial to the State of New Mexico. But we still have a long ways to go.

Chairman DOMENICI. I have one observation and then one question of the Secretary.

THANKS TO REVENUE-SHARING PROGRAM FOR HIGHWAY FUNDING INCREASE

Interestingly enough, the highway program in terms of the final funding formula that came out of the conference with the House—and you might not know this, Buddy—but the highway program ought to be extremely thankful to the revenue-sharing program. That may sound crazy, but what happened was the House—certainly, it was not Congressman Skeen's fault; he voted the opposite way—but their bill came down with New Mexico and States like ours getting less after 5-cent new taxes than we were getting without it, because in the interest of equity, they said they were going to go back and give more money to the New Jerseys and Pennsylvanias. The Senate did the opposite and came out our way, and when we went to conference, we did not know how we were ever going to solve that, and we were going to have to kill the bill in the Senate, but we had enough Senators that were not going to put on the tax and provide mass transit funds, then come home and tell our people we had ended up with less money.

So it dawned on me driving home one night that we had had the same problem when we had revenue-sharing. The House produced a bill with huge funding for the heavily populated States. The Senate produced one leaning dramatically toward our kind of

State, and I went to work and said, "How did we solve that?" Well, staff went and read, and the way they did it was to take both programs and put them together and say we will give each governmental unit the highest number that it gets under either bill, draw a line, add it up, and then cut them all a fixed percent to bring it within the number. And it turned out that it worked. We did it on the highway program, and everybody got the high number, and we took off 9 percent to arrive at the allotment for primaries, and that is how we got the \$100 million instead of the \$66 million.

Congressman SKEEN. It is called "creative statistics."

Mr. HEWETT. However you do it, it suits us fine.

Congressman SKEEN. It worked.

PREPARED STATEMENT OF BUDDY HEWETT, DISTRICT HIGHWAY ENGINEER,
NEW MEXICO STATE HIGHWAY DEPARTMENT

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS BUDDY HEWETT. I AM THE DISTRICT HIGHWAY ENGINEER FOR DISTRICT 2, WHICH ENCOMPASSES THE SE/4 OF THE STATE OF NEW MEXICO.

I WANT TO THANK YOU FOR AFFORDING ME THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS THE IMPACT OF FEDERAL POLICIES ON NEW MEXICO'S TRANSPORTATION NETWORK, PARTICULARLY HIGHWAYS AND BRIDGES IN THE EASTERN HALF OF OUR STATE.

UNTIL RECENTLY, I SERVED FOR APPROXIMATELY THREE YEARS AS CABINET SECRETARY AND CHIEF HIGHWAY ADMINISTRATOR FOR THE GOVERNOR AND THE NEW MEXICO STATE HIGHWAY DEPARTMENT.

IN THAT CAPACITY, I HAD THE OPPORTUNITY TO WORK CLOSELY WITH MEMBERS OF OUR CONGRESSIONAL DELEGATION AND THEIR STAFF, AASHTO AND WASHTO REPRESENTATIVES, FHWA AND FEDERAL DEPARTMENT OF TRANSPORTATION OFFICIALS, IN A COMMON EFFORT TO FIND THE MEANS TO HALT OR SLOW DOWN THE EVER INCREASING RATE OF DETERIORATION OF OUR STATE'S HIGHWAYS AND BRIDGES.

I CAN TELL YOU THAT THROUGH EFFORTS OF SENATOR DOMINICI, CONGRESSMAN SKEEN AND OTHER CONGRESSIONAL DELEGATES IN THE LAST FISCAL YEAR, THE STATE OF NEW MEXICO WAS ABLE TO RE-COUP SOME \$30 MILLION DOLLARS IN HIGHWAY FUNDING THAT OTHERWISE WOULD HAVE BEEN DENIED BY APPLICATION OF THE FORMULA WHICH DETERMINED THE OBLIGATION CEILING FOR OUR STATE.

RECENT CONGRESSIONAL ACTION WHICH PROVIDED THE LONG OVERDUE GASOLINE TAX INCREASE WILL LEND FURTHER SUPPORT TO OUR EFFORTS IN UP-GRADING NEW MEXICO'S HIGHWAYS AND BRIDGES; HOWEVER, IT MUST BE RECOGNIZED THAT WITH THE AFOREMENTIONED INCREASES IN FEDERAL FUNDING, THE STATE MUST PROVIDE MATCHING FUNDS IN THE FORM OF EARMARKED REVENUES AND SPECIAL APPROPRIATION BY THE LEGISLATURE IF WE ARE TO TAKE FULL ADVANTAGE OF AVAILABLE FEDERAL FUNDS, AND TO FUND THOSE PROJECTS WHICH ARE NOT ELIGIBLE FOR ~~THE~~ FEDERAL AID.

THE STATE HIGHWAY DEPARTMENT HAS APPROXIMATELY 12,000 MILES OF HIGHWAYS ON ITS SYSTEM TO MAINTAIN AT A LEVEL OF SERVICE THAT WILL ASSURE THE SAFE AND EFFICIENT MOVEMENT OF GOODS AND SERVICES FOR ITS CITIZENS.

IN THE EASTERN HALF OF OUR STATE, OUR HIGHWAYS MUST PROVIDE SUCH SERVICE TO HIGH VOLUME HEAVY COMMERCIAL VEHICLES WHICH ARE ASSOCIATED WITH EXTRACTION OF VITAL ENERGY PRODUCTS; I.E., OIL, GAS, CO₂ AND RELATED PETROLEUM BY-PRODUCTS AND SERVICES.

DISCOVERY AND DEVELOPMENT OF NATURAL GAS RESOURCES NORTH OF ROSWELL THIS PAST YEAR HAS HAD A DEVASTATING EFFECT ON ALL PRIMARY SYSTEM ROADS WITHIN THE AREA SERVED BY DRILLING COMPANIES, OIL AND GAS WELL SERVICING COMPANIES AND PIPE LINE TRANSMISSION COMPANIES, IN THAT INCREASED HEAVY TRUCK TRAFFIC AND SEVERE WEATHER OVER THE PAST SIX MONTHS HAVE COMBINED TO LITERALLY TEAR THESE ROADS APART, AS EVIDENCED BY US 285 NORTH OF ROSWELL, US 82 BETWEEN LOVINGTON AND ARTESIA, AND US 70 FROM ROSWELL TO ELIDA.

SINCE US 285 IS THE NUMBER ONE PRIORITY FOR FUNDING IMPROVEMENTS ON DESIGNATED HAUL ROUTES TO THE WIPP SITE NEAR CARLSBAD, AS INDICATED IN THE STIPULATED AGREEMENT BETWEEN THE STATE OF NEW MEXICO AND D.O.E., I WOULD URGE THIS COMMITTEE TO TAKE NECESSARY STEPS TO SPEED UP THE APPROPRIATION OF FUNDS THAT WILL ENABLE THE DEPARTMENT TO PROCEED AS QUICKLY AS POSSIBLE WITH REHABILITATION OF US 285, AND OTHER ROUTES IN S.E. NEW MEXICO DESIGNATED AS WIPP HAUL ROUTES. THIS WILL PROVIDE SOME MEASURE OF RELIEF TO WHAT I CONSIDER TO BE AN EMINENT THREAT NOT ONLY TO THE ECONOMIC WELL BEING OF OUR ENTIRE STATE, BUT ALSO TO THE SAFETY OF THE TRAVELING PUBLIC.

AS DISCUSSED IN THE FULL TEXT OF MY TESTIMONY SUBMITTED FOR THE RECORD, THE PERCENT OF DEFICIENT MILES OF ROADWAY ON THE STATE PRIMARY SYSTEM HAS BEEN REDUCED FROM 55% IN 1973, TO 34% IN 1983. HOWEVER, THERE ARE 1,372 MILES REMAINING AS DEFICIENT OUT OF A TOTAL OF 4,267 MILES ON THE PRIMARY SYSTEM ALONE. ALTHOUGH WE FEEL THIS IS A SUBSTANTIAL ACCOMPLISHMENT, AND THAT IT IS DUE TO THE FORESIGHT OF THE STATE LEGISLATURE WHICH HAS PROVIDED FUNDS THROUGH SPECIAL APPROPRIATIONS TO ASSIST US IN REVERSING THE TREND, IT IS INCREASINGLY APPARENT THAT WE ARE FACED WITH A PROBLEM OF ENORMOUS FISCAL PROPORTIONS.

A PRELIMINARY HIGHWAY NEEDS STUDY, RECENTLY COMPLETED BY THIS DEPARTMENT INDICATES THAT APPROXIMATELY 6.4 BILLION DOLLARS WILL BE NEEDED OVER THE NEXT 25 YEARS JUST TO BRING THE TOTAL STATE

SYSTEM UP TO A MAINTAINABLE STANDARD LEVEL OF SERVICE. THAT PROJECTION IS ASSUMING THAT ANNUAL FUNDING IS AVAILABLE TO MEET CURRENT REPAIR NEEDS PLUS ALL ROADS ON THE SYSTEM THAT WILL COME TO NEED REPAIRS ANNUALLY OVER THE NEXT 25 YEARS. MR. CHAIRMAN, THE WORDING I HAVE USED, ("MAINTAINABLE STANDARD LEVEL OF SERVICE") MEANS THAT NO IMPROVEMENTS TO A HIGHER DESIGN LEVEL OF SERVICE THAN NOW EXISTS WOULD BE ACCOMPLISHED. IT WOULD BE A "NO FRILLS" IMPROVEMENT, AND IN SOME CASES INVOLVING RE-CONSTRUCTION, THERE COULD BE A PERMISSIBLE LOWERING OF CURRENT DESIGN STANDARDS.

THE BLEAK FUTURE I HAVE DEPICTED FOR NEW MEXICO'S ROAD TRANSPORTATION SYSTEM IS BY NO MEANS UNIQUE TO OUR STATE. I AM SURE THAT ALL OF YOU ARE WELL AWARE OF WHAT HAS BEEN REFERRED TO AS A "NATIONAL DISGRACE", I.E.: THE CRUMBING OF THE NATION'S HIGHWAYS, WATER AND SEWAGE DISPOSAL SYSTEMS AND OTHER PUBLIC WORKS' CAPITAL INVESTMENT FACILITIES.

ALTHOUGH NEW MEXICO'S NEEDS OVER THE NEXT TWENTY-FIVE YEARS MAY SEEM TO BE BUT A SMALL PART OF AN ESTIMATED TRILLION DOLLAR NATION-WIDE NEED, WE IN THIS STATE ARE JUST AS CONCERNED WITH THIS ISSUE AS ANY OTHER STATE WHICH MUST DEPEND ON ITS TRANSPORTATION NETWORK FOR ECONOMIC SURVIVAL.

MR. CHAIRMAN, I HAVE ATTACHED TO THIS PRESENTATION ADDITIONAL INFORMATION WHICH WILL PROVIDE THIS COMMITTEE WITH STATISTICS AND OTHER DATA WHICH I TRUST YOU WILL FIND USEFUL IN SEEKING A SOLUTION TO OUR DILEMMA. CRITICAL TO THAT SOLUTION IS THE RECOGNITION BY

CONGRESS AND THE ADMINISTRATION THAT, IN ORDER FOR A STATE TO PROPERLY PLAN FAR ENOUGH IN ADVANCE OF CONSTRUCTION, IT MUST BE ABLE TO RELY ON FUTURE YEARS' APPORTIONMENTS IN EACH FUNDING CATEGORY.

FOR THE LAST THREE YEARS, FEDERAL HIGHWAY FUNDING LEGISLATION HAS LEFT MUCH TO BE DESIRED IN THAT RESPECT. RELIABLE PROJECTIONS OF FEDERAL FUNDING HAVE BEEN AS SHORT AS THREE MONTHS IN ADVANCE OF ACTUAL LEGISLATION WHICH ESTABLISHED FUNDING LEVELS FOR THE REMAINDER OF THAT FISCAL YEAR.

SUCH UNPREDICTABLE REVENUE PROJECTION NECESSITATES LAST MINUTE CHANGES IN PROGRAMS IN ORDER TO TAKE MAXIMUM ADVANTAGE OF AVAILABLE FEDERAL DOLLARS IN EACH CATEGORY, WITH CORRESPONDING SHIFTING AND CHANGING OF PLANS FOR UTILIZATION OF STATE FUNDS. IT TAKES NO GREAT IMAGINATION TO REALIZE WHAT AFFECT THIS HAS ON A STATE HIGHWAY DEPARTMENT'S CREDIBILITY WHEN APPEARING BEFORE THE LEGISLATURE WITH ITS ANNUAL BUDGET REQUEST.

THE NEED FOR A LONG RANGE PLAN FOR HIGHWAY IMPROVEMENTS IS MORE EVIDENT NOW THAN EVER BEFORE AND IN ORDER TO MEET THAT COMMITMENT WE MUST BE ABLE TO DEPEND ON A MULTI-YEAR HIGHWAY FUNDING BILL WHICH ALSO ESTABLISHES OBLIGATION CEILINGS THAT ALLOW MAXIMUM UTILIZATION OF UNOBLIGATED APPORTIONMENTS.

MR. CHAIRMAN, THIS CONCLUDES MY REMARKS, AND I WANT TO THANK YOU AGAIN FOR ALLOWING ME TO APPEAR BEFORE YOU. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

New Mexico's Highway Information

Introduction

Since the advent of the motor vehicle era more than 50 years ago, New Mexico has devoted considerable effort to the task of providing adequate highway facilities for New Mexicans and visitors from other states. Thousands of miles of roads and streets have been constructed and improved to modern design standards. However, even with all this progress, there are many miles of highways, roads, and streets that are not adequate for today's travel characteristics.

Future population growth and increased motor vehicle travel will place additional demands on existing facilities and create new problems.

Travel Growth Factors

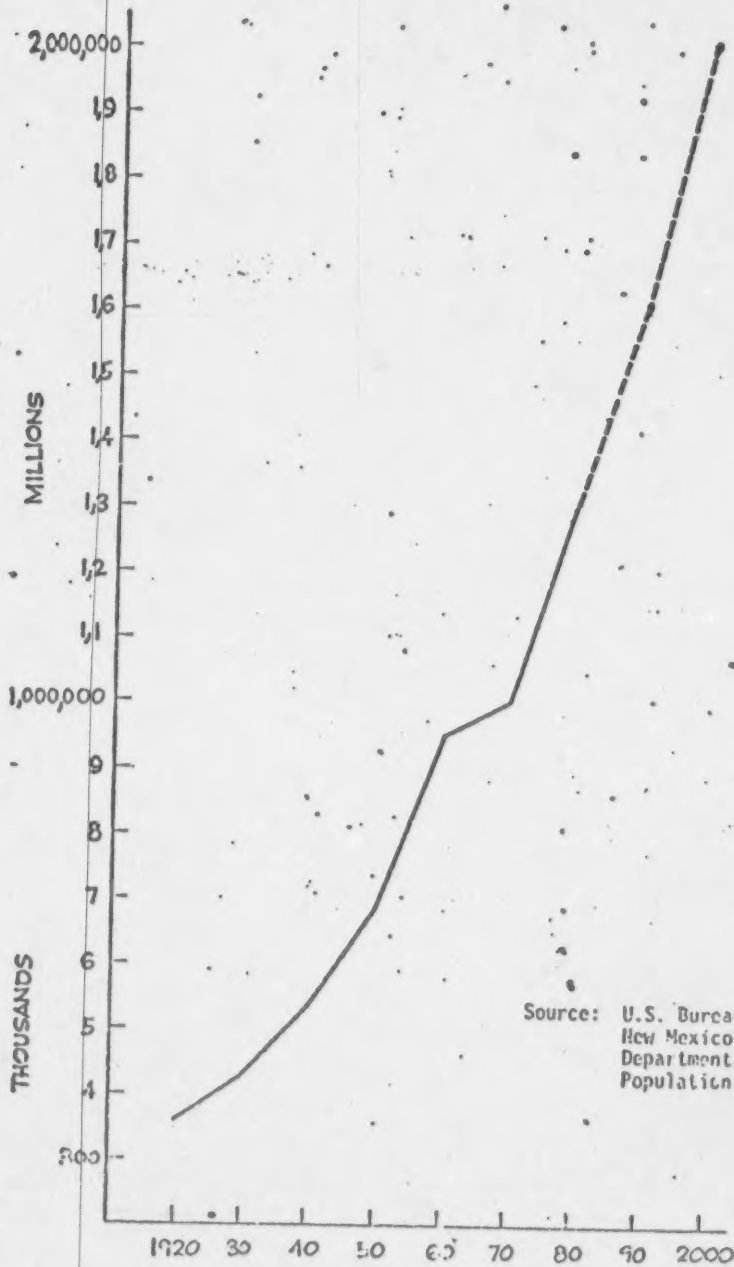
Population

New Mexico's population is projected to increase from approximately 1.3 million residents in 1980 to 1.6 million in 1990 and 2.1 million in the year 2000. This represents a 60% increase in 20 years. Figure 1 summarizes New Mexico's population trends.

Motor Vehicle Registration

The number of registered vehicles is another indicator of increased travel on New Mexico's highways. The number of motor vehicles registered in New Mexico has risen from approximately 700,000 in 1970 to almost 1.2 million in 1980. This represents

FIGURE 1
NEW MEXICO POPULATION



an increase of 68% over a ten year period. If this trend continues, by 1990 there could be 1.7 million vehicles on New Mexico's streets and roads, and about 2 million by the year 2000. Figure 2 summarizes New Mexico's motor vehicle registration.

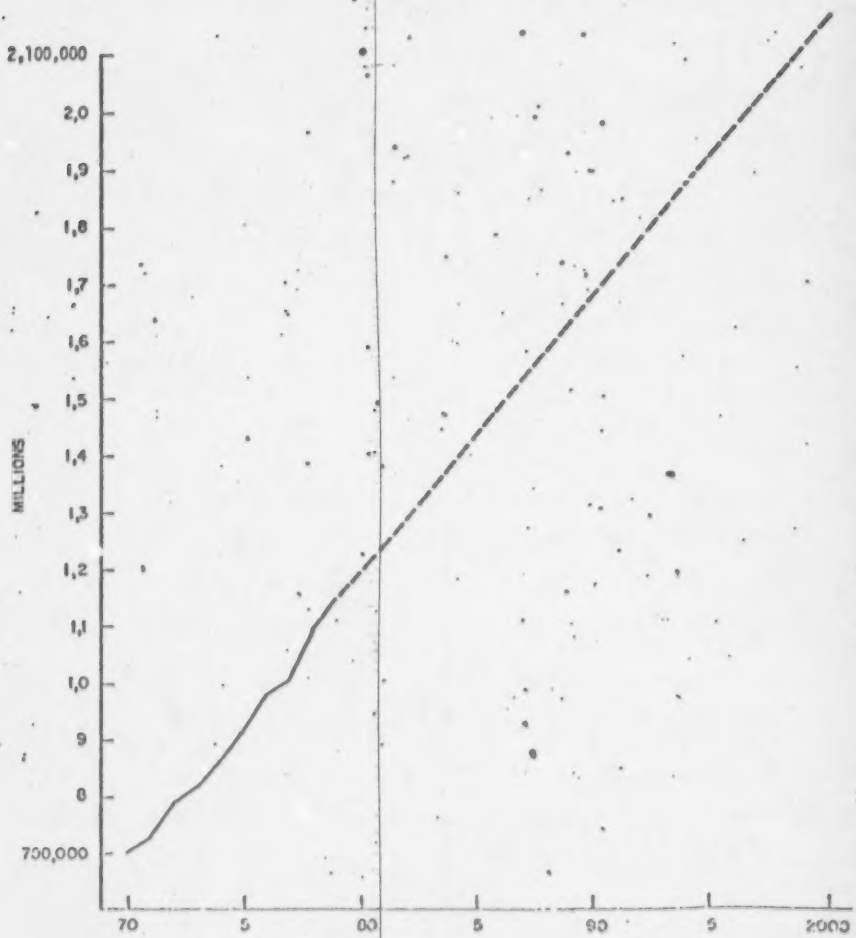
Vehicle Miles of Travel

The number of vehicle miles of travel on New Mexico highways is probably the best indication of system use. In 1970, there were approximately 20.4 million miles of travel per day on New Mexico roadways. In 1980 this increased to 30.9 million miles traveled per day. This represents an increase of 52% in 10 years. Figure 3 summarizes the vehicle miles traveled in New Mexico.

Even more importantly, the vehicle miles of travel by commercial vehicles is expected to increase from 2.6 million average daily miles of travel in 1980 to 4.7 million daily miles of travel in the year 2000, a 76% increase. Figure 3A summarizes the vehicle miles traveled in New Mexico by heavy commercial vehicles.

In view of these travel growth projections, future highway needs (the accumulated backlog plus future needs) will be very great. The Pavement Performance Curve shown in Figure 4 indicates that pavement deteriorates faster as traffic loads increase over time. Which means that the projected increase in vehicle traffic will cause our highway systems to deteriorate even faster than they do now and further strain our ability to adequately maintain

FIGURE 2
NEW MEXICO MOTOR VEHICLE REGISTRATION



Source: New Mexico State Highway Department Planning Bureau.

AVERAGE DAILY TRAVEL ON ALL ROADS & STREETS
IN NEW MEXICO
(MILLIONS OF VEHICLE MILES)

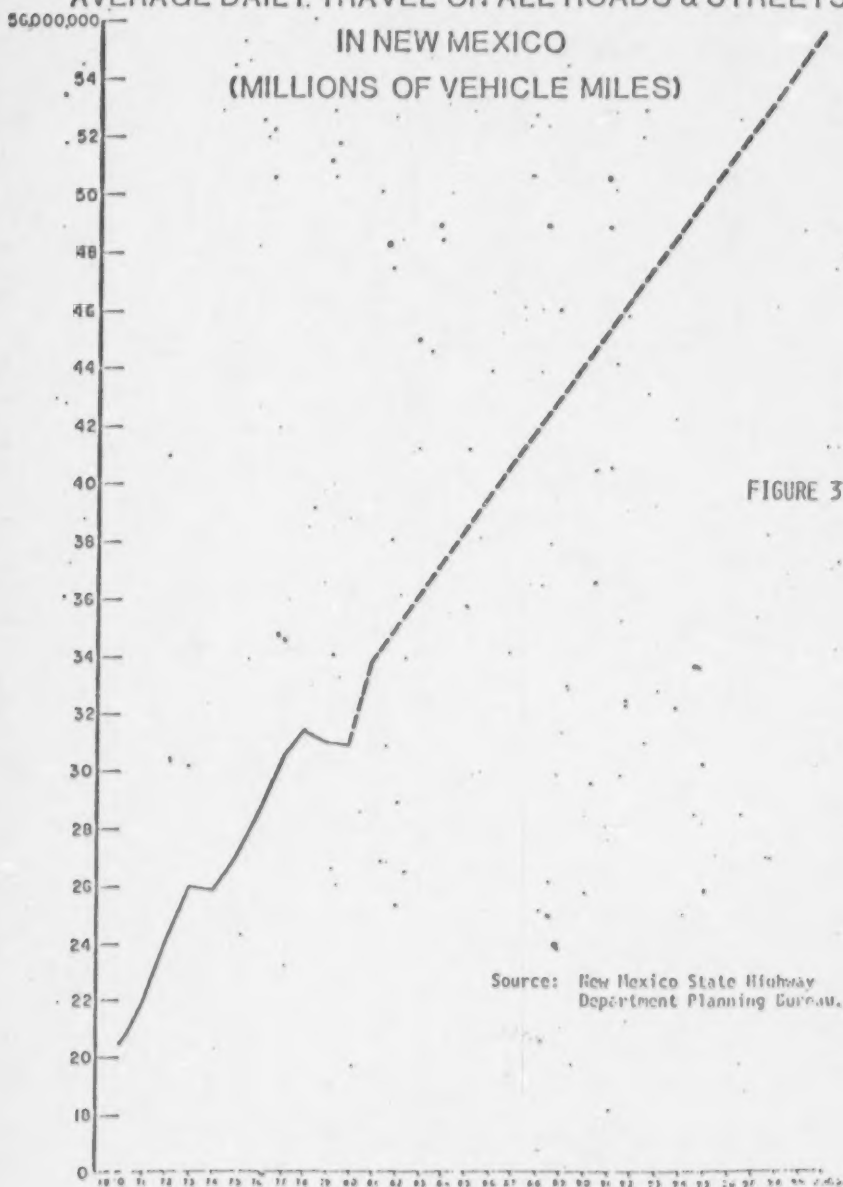
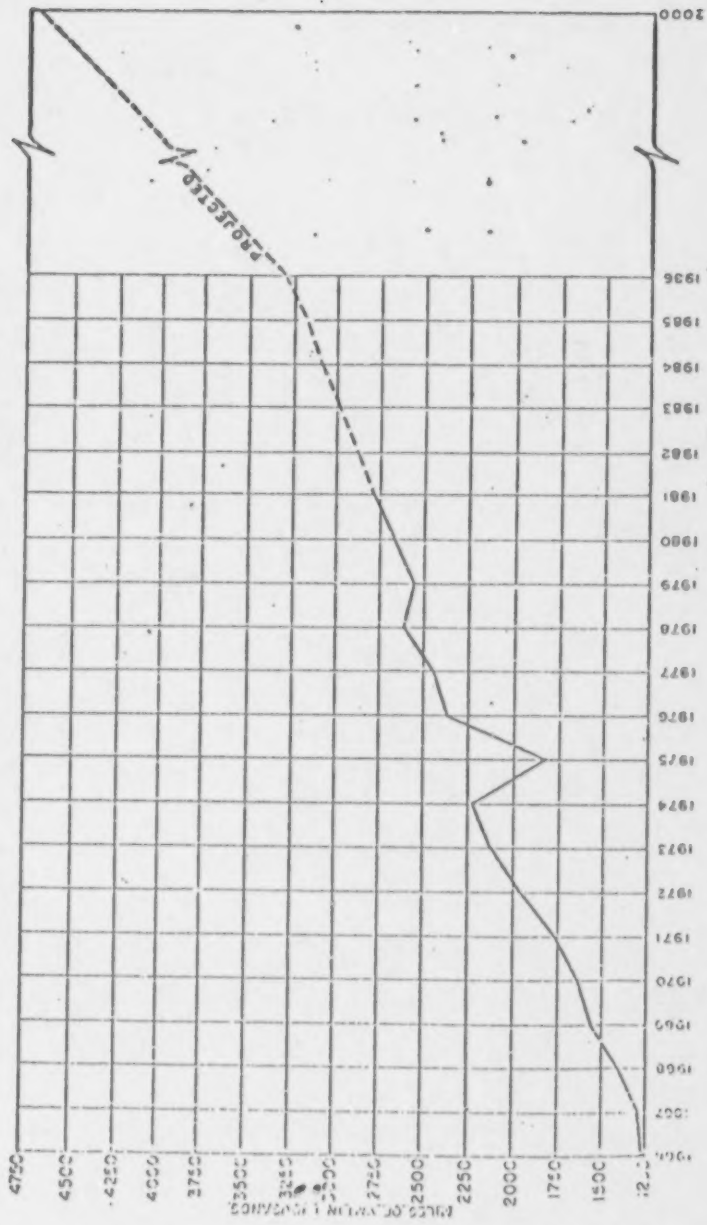


FIGURE 3

Source: New Mexico State Highway
Department Planning Bureau.

FIGURE 3A
 AVERAGE DAILY VEHICLE MILES BY HEAVY COMMERCIAL VEHICLES
 ON ALL ROADS AND STREETS IN NEW MEXICO



Source: Statewide Unit, Planning Bureau, New Mexico State Highway Department (1982).

and improve these facilities.

Consequences of Deferred Maintenance and Improvement

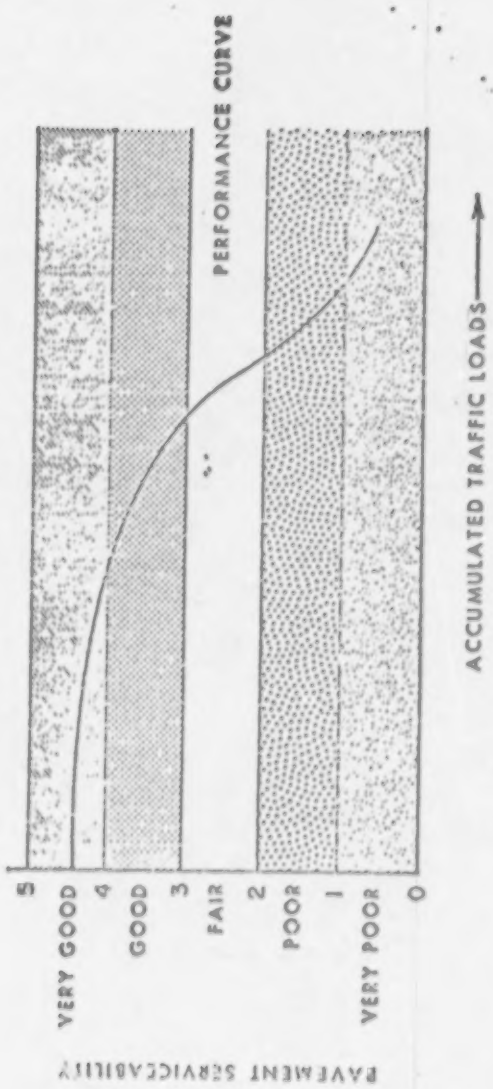
Along with the problems associated with increased use of the system, we are also faced with consequences if we defer improvements and maintenance. These consequences are well documented. Many studies have shown that long-term costs are substantially increased if maintenance and improvements are put off too long. For instance, a study entitled "Good Roads Cost Less"¹ concludes that ". . . considerable savings can be realized through the proper timing or strategy for the rehabilitation of a pavement surface." The same findings are contained in a report published by the National Cooperative Highway Research Program.² Figure 5 illustrates this point. Given a 16 year pavement life, a road that deteriorates 40% in the first 12 years of its life, will deteriorate another 40% in the next 3 years of its life; that is, after a certain point, roads get worse much more quickly.

In addition, the cost of repairing that road can increase by a factor of at least four or five in that three years. For example, a road that has deteriorated from very good to fair condition and would cost \$100,000 to repair 12 years after initial construction, would have deteriorated to very poor condition and cost \$400,000 to \$500,000 to repair at 15 years after construction. Which is to say that taxpayers pay dearly to drive on roads

¹Good Roads Cost Less, Utah Department of Transportation, Research and Development Unit, October, 1977.

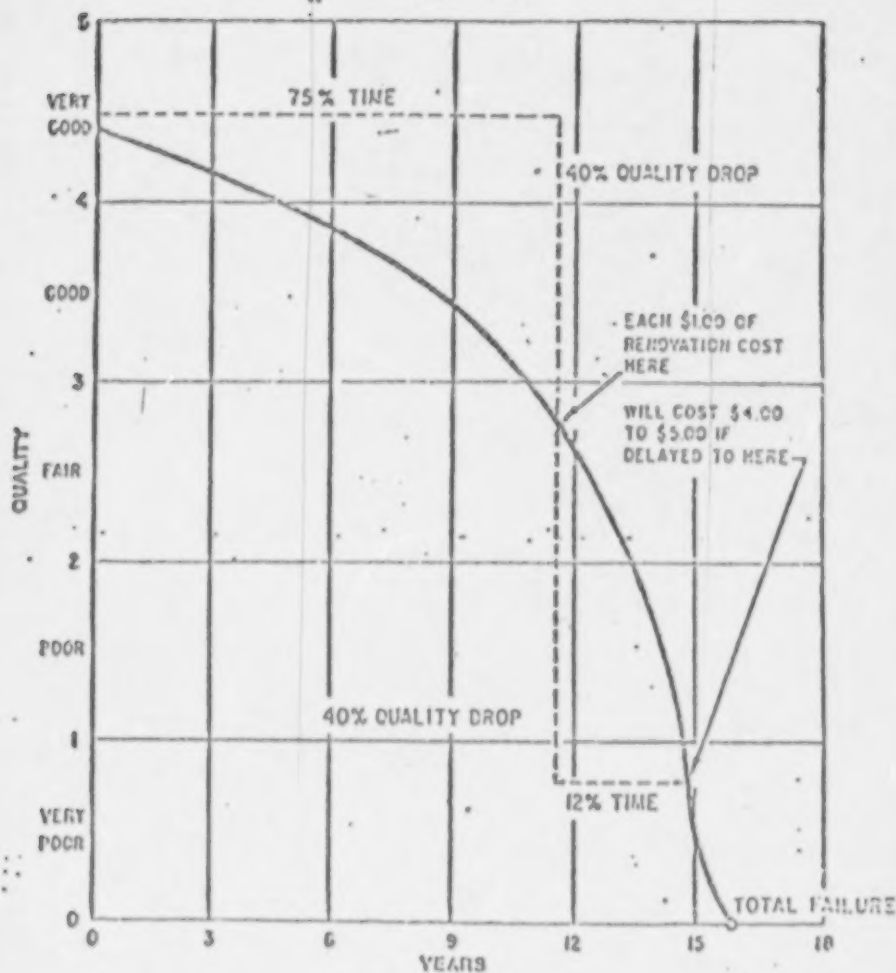
²Consequences of Deferred Maintenance, National Cooperative Highway Research Program, Synthesis of Highway Practice-58, Transportation Research Board, National Research Council, Washington, D.C., May, 1979.

FIGURE 4
PAVEMENT PERFORMANCE CURVE



Source: Good Roads Cost Less, Utah Department of Transportation, Research and Development Unit, October, 1977.

FIGURE 5



ROAD DETERIORATION VERSUS TIME

Source: Good Roads Cost Less, Utah Department of Transportation, Research and Development Unit, October, 1977.

in fair to very poor condition if maintenance is put off too long.

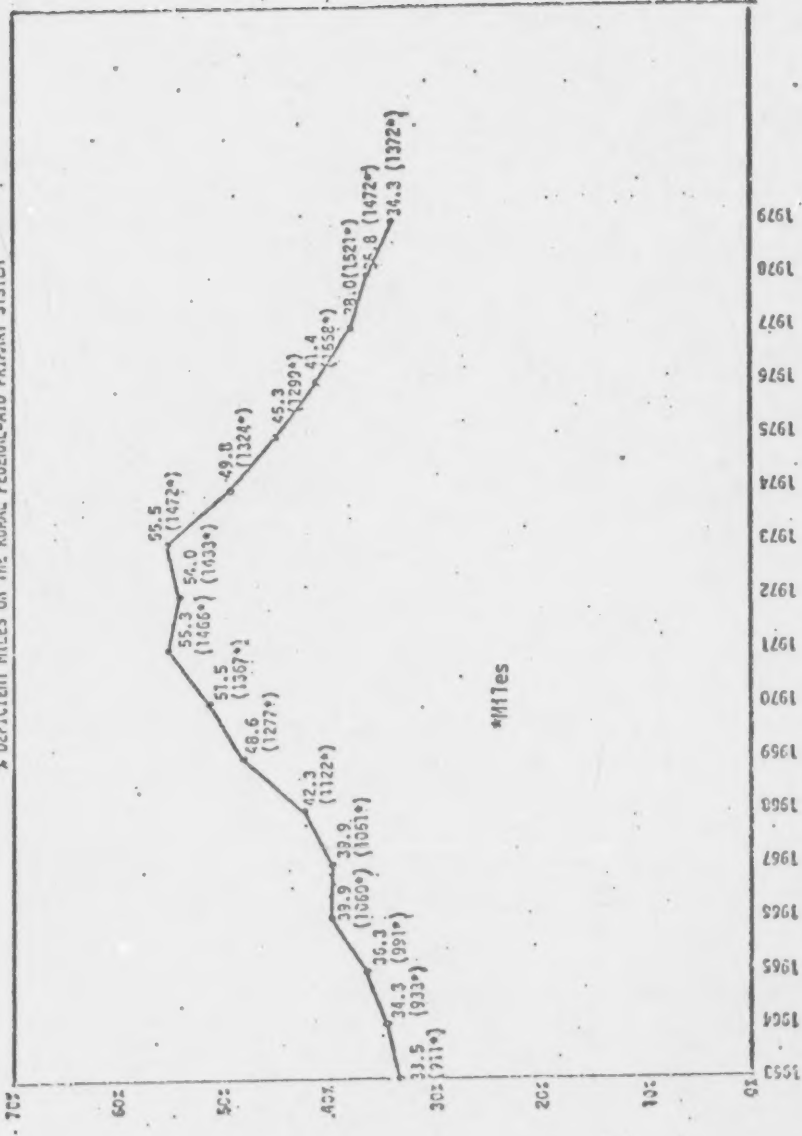
Present Accomplishments

Even with all of the above factors adversely effecting our present State Highway System, progress in improving the System has been made. As depicted in Figure 6, the percent of deficient miles on the State Primary System has been reduced in recent years. In 1973, 55.5% of the system was deficient. However, today 34.3 percent of 1,372 miles remain deficient and in need of improvement. We feel that this is a substantial accomplishment and that it is due to the foresight of the Legislature, which provided additional funding for highways and, thereby, reversed the previous trend which had the system deteriorating faster than improvements were being made.

This is not to say that our problems have been solved; on the contrary, present needs studies indicate that 639 million 1981 dollars will be required to bring the total primary system, over the next 25 years, up to acceptable standards. That is, all the roads on the Primary System that presently need repair plus all roads on the Primary System that will come to need repairs during the next 25 years are estimated to cost 639 million in 1981 dollars to fix if all the repairs are made. Even more importantly, preliminary studies indicate that approximately 6.4 billion dollars are needed to bring the total State System up to standards over the next 25 years.

FIGURE 6

% DEFICIENT MILES ON THE RURAL FEDERAL-AID PRIMARY SYSTEM



Source: New Mexico State Highway Department Planning Bureau

Road and Street System in New Mexico

The total of all roads and streets in New Mexico total some 79 thousand miles. These are shown in Table 1.

TABLE 1

Administrative Road Systems in New Mexico
1982

<u>System</u>	<u>Mileage</u>	<u>Percent</u>
State Highway System	12,184.8	15.43
National Forest Highway System	-0-	-0-
National Forest Development System	4,985.7	6.31
National Indian Reservation Roads	2,942.1	3.72
National Park and Monument Roads	29.0	0.04
State Park Roads	38.7	0.05
Military Reservation Roads	1,209.1	1.53
County Roads	52,860.9	66.94
City Streets	4,718.5	5.98
	<u>79,968.8</u>	<u>100.00</u>

The State System

The administrative system of chief concern is the State System. The State System is the public road mileage for which the State Highway Commission is responsible and on which State highway funds are expended.

In some 66 years of statehood, the State System has expanded to more than 12,000 miles which carry approximately 9.4 billion vehicle miles of travel each year if Urban State System routes are included. Table 2 shows the development of the present State System.

TABLE 2The Development of New Mexico's State Highway System

<u>YEAR</u>	<u>MILEAGE</u>
1912	4,000
1917	6,500
1925	9,160
1930	9,334
1935	10,248
1940	9,276
1945	9,542
1950	10,550
1955	11,407
1960	11,918
1965	12,193
1970	12,586
1975	12,750
1980	12,685
1982	12,185

In 1982, the State System included 12,184.8 miles of public roads, or approximately one-fifth of the total public road mileage in New Mexico, and carried about four-fifths of the total traffic.

The State System is comprised of five categories. These are shown in Table 3. Following the table are explanations of each of the categories.

TABLE 3

State Highway Systems Administration Classifications
1982

National System of Interstate and Defense Highways	999.7 miles
Federal-Aid Primary System	4,266.9 miles
Federal-Aid Secondary System	3,190.3 miles
Federal-Aid Urban System	369.4 miles
Other State Roads	<u>3,358.4 miles</u>
TOTAL	12,184.8 miles

Vehicle miles of Travel in New Mexico-1981

Annual vehicle miles of travel amounted to some 11.5 billion and is shown on Table 4 by system.

TABLE 4

New Mexico
Annual Vehicle-Miles of Travel on all Roads and Streets
By Road System, 1981

(Vehicle-Miles in Thousands)

	<u>Total</u>	<u>Percent of Total Travel</u>	<u>Percent of Total Travel on State Highway System</u>
Federal-Aid Interstate - Rural	2,207,734	19.1	23.4
Federal-Aid Interstate - Urban & Municipal	628,838	5.5	6.7
Federal-Aid Primary - Rural	2,558,308	22.1	27.1
Federal-Aid Primary - Urban & Municipal	853,758	7.4	9.0
Federal-Aid Urban - Urban	2,057,907	17.8	21.8
Federal-Aid Secondary - Rural	703,028	6.1	7.4
Federal-Aid Secondary - Municipal	71,875	0.6	0.8
Other State - Rural	272,996	2.4	2.9
Other State - Urban & Municipal	83,286	0.7	0.9
Local - Rural	765,890	6.6	0.0
Local - Urban & Municipal	1,355,480	11.7	0.0
TOTAL	11,559,100	100.0	100.0

Federal-Aid Highway Fund to New Mexico

The following are the amounts of apportionments and allocation to New Mexico during the last five fiscal years:

1979	\$ 95.1 million
1980	\$106.3 million
1981	\$123.2 million
1982	\$ 76.8 million
1983	\$ 96.2 million

The following are estimated apportionments to New Mexico:

1984	\$100.3 million
1985	\$109.2 million
1986	\$117.3 million

Number of Bridges in Inventory and Number of Deficient Bridges On and Off the Federal-Aid System in New Mexico

<u>Number of Bridges In Inventory</u>	<u>Number of Deficient Bridges</u>	<u>System</u>
2,832	364	On FA System
599	256	Off FA System
<u>3,431</u>	<u>620</u>	<u>TOTAL</u>

Comparison with Other Western States

- Table I - Population Characteristics of Selected States
- Table II - Rural Mileage 1980
- Table III- Road and Street Mileage, 1980
- Table IV - Receipts for Highways all units of Government
- Table V - Receipts and Disbursements by units of Government
- Table VI - Surface mileage, Average Daily Traffic and Vehicle Miles of Travel - 1979

Table I
Population Characteristics
of Selected States

	Arizona	Colorado	Idaho	Montana	Nevada	New Mexico	Utah	Wyoming	Average w/o NM
1980 Population	2,718,215	2,889,964	943,935	786,690	800,493	1,302,981	1,461,037	469,557	1,438,556
Square Miles Land	112,508	103,595	82,413	145,392	109,893	121,335	82,073	96,989	104,838
Population/Square Mile	23.9	27.9	11.5	5.4	7.3	10.7	17.8	4.8	14.1
% Urban	83.8	80.6	54.0	52.9	85.3	72.1	84.4	62.7	72.0
% Rural	16.2	19.4	46.0	47.1	14.7	27.9	15.6	37.3	28.0
State Highway Mileage 1980	6,006	9,130	5,130	6,487	5,117	12,685	5,556	6,368	6,256
Total Road System Mileage 1980	75,214	88,675	67,502	71,710	43,385	78,877	49,749	36,234	61,781

Sources: U.S. Census Bureau: 1980 Census.

Federal Highway Administration, Highway Statistics 1980 (Washington, D.C.: Government Printing Office, 1980), Table HW-10, p. 107.

New Mexico State Highway Department, Road and Street Mileage in New Mexico (Santa Fe, New Mexico: Planning Bureau, January 1, 1981), p. 1

Colorado mileage data: Colorado Department of Highways, Division of Transportation Planning, Statistics Section.

Table II
Rural Mileage, 1980

	Arizona	Colorado	Idaho	Montana	Nevada	New Mexico	Utah	Wyoming	Average w/o NM
TOTAL RURAL MILEAGE	66,937	79,460*	65,275	69,351	41,423	73,259	45,443	34,591	57,497
RURAL MILEAGE UNDER STATE CONTROL									
State Primary Miles % of Total	5,685 8.5	4,792 6.0	4,734 7.3	6,105 8.8	2,283 5.5	4,881 6.6	5,045 11.1	6,112 17.7	4,965 9.3
State Secondary Miles % of Total	-0- -0-	3,356 4.2	9 -0-	100 0.1	2,666 6.4	3,161 4.3	-0- -0-	-0- -0-	- -
State Other Miles % of Total	-0- -0-	277 0.3	162 0.2	-0- -0-	-0- -0-	3,664 5.0	-0- -0-	-0- -0-	- -
State Total Miles % of Total	5,685 8.5	8,425 10.6	4,905 7.5	6,205 8.9	4,949 11.9	11,706 15.98	5,045 11.1	6,112 17.7	5,904 10.9
RURAL MILEAGE UNDER LOCAL CONTROL									
County Miles % of Total	24,956 37.3	69,345 87.3	13,822 21.1	53,615 77.3	22,744 54.9	52,290 71.4	19,529 43.0	14,369 41.5	31,197 51.8
Other Local Miles % of Total	1,304 1.9	-0- -0-	11,982 18.4	-0- -0-	514 1.2	-0- -0-	2,170 4.8	10,682 30.9	- -
RURAL MILEAGE UNDER FEDERAL CONTROL									
Miles % of Total	34,985 52.3	1,690* 2.1	34,320 52.6	9,498 13.7	13,216 31.9	9,166 12.5	15,563 34.2	3,428 9.9	16,100 28.1

*Subject to revision

Sources: Federal Highway Administration, Highway Statistics 1980 (Washington, D.C.: Government Printing Office, 1980) Table HM-10, P. 107.

N.M. State Highway Department, Road and Street Mileage in New Mexico (Santa Fe, NM: Planning Bureau, January 1, 1981), p. 1
 Colorado mileage data: Colorado Department of Highways, Division of Transportation Planning, Statistics Section.

TABLE III
Road And Street Mileage, 1980

	Arizona	Colorado	Idaho	Montana	Nevada	New Mexico	Utah	Wyoming	Average w/o NM
TOTAL MILES (Rural & Urban)	75,214	88,675	67,502	71,710	43,385	78,877	49,749	36,234	61,781
STATE SYSTEM (Rural & Urban)									
Federal Aid Miles	5,894	8,853	4,936	6,653	4,557	9,127	5,366	5,956	6,031
% of Total	7.8	10.0	7.3	9.3	10.5	11.6	10.8	16.4	10.3
Non-Federal Aid Miles	209	277	190	104	564	3,835	235	350	276
% of Total	0.3	0.3	0.3	0.1	1.3	4.9	0.5	1.0	0.5
Total State Miles	6,103	9,130	5,126	6,757	5,121	12,685	5,601	6,306	6,306
% of Total	8.1	10.3	7.6	9.4	11.8	16.1	11.3	17.4	10.8
Non-Federal Aid Miles	209	277	190	104	564	3,835	235	350	276
% of State System	3.4	3.0	3.7	1.5	11.0	30.2	4.2	5.6	4.6

Sources: Total miles - Federal Highway Administration, Highway Statistics 1980 (Washington, D.C.: Government Printing Office, 1980) Table HM-10, P. 107

All other mileage - op. cit., Table HM-14, P. 111.

N.M. Mileage - N.M. State Highway Department, Road and Street Mileage in New Mexico (Santa Fe, NM: Planning Bureau, January 1, 1981), P. 1

Colorado mileage data - Colorado Department of Highways, Division of Transportation planning, Statistics Section.

TABLE IV
Receipts (\$000) for Highways
All Units of Government
1980

	Arizona	Colorado	Idaho	Montana	Nevada	New Mexico	Utah	Wyoming	Average w/o NM
Road User Revenues	332,415	292,707	150,963	177,989	120,878	189,377	177,258	108,229	194,348.5
Other Revenues	225,549	229,296	54,651	103,130	7,670	71,142	56,443	79,327	108,009.5
TOTAL Revenues	557,964	522,003	205,614	218,119	128,548	260,519	233,701	187,556	302,358.0

Source: Federal Highway Administration, Highway Statistics 1980, (Washington, D.C.: Government Printing Office, 1980), Table HF-1, p. 40.

TABLE V
Receipts and Disbursements (\$000)

STATE SYSTEM MILES 1980 (Rural & Urban)	Arizona	Colorado	Idaho	Montana	Nevada	New Mexico	Utah	Wyoming	Average w/o NM
Receipts for State Administered Highways, 1980	6,006	9,130	5,130	6,487	5,117	12,685	5,556	6,368	6,256
(\$000)/Mile	\$314,183	\$282,364	\$100,628	\$203,603	\$156,746	\$201,237	\$199,023	\$180,429	\$205,282
Disbursements for State Administered Highways 1980	\$52.31	\$30.93	\$19.62	\$31.39	\$30.63	\$15.86	\$35.82	\$28.33	\$32.72
(\$000)/Mile	\$277,337	\$299,912	\$109,274	\$198,860	\$160,810	\$185,318	\$207,235	\$175,655	\$204,155
	\$46.18	\$32.85	\$21.30	\$30.66	\$31.43	\$14.61	\$37.30	\$27.58	\$32.47
COUNTY MILES - 1979	26,004	68,972	13,892	57,355	23,269	47,425	21,615	14,718	32,261
Receipts of Counties for Highways, 1979	\$75,605	\$92,345	\$38,535	\$36,071	-	\$16,379	\$30,678	\$17,080	\$48,386
(\$000)/Mile	\$2.91	\$1.34	\$2.77	\$0.63	-	\$0.34	\$1.42	\$1.16	\$1.71
Disbursements by Counties for Highways, 1979	\$73,066	\$93,320	\$44,798	\$35,954	-	\$14,503	\$27,263	\$17,080	\$48,580
(\$000)/Mile	\$2.81	\$1.35	\$3.22	\$0.63	-	\$0.31	\$1.26	\$1.16	\$1.74
MUNICIPAL MILES - 1979	9,259	9,091	3,306	2,793	1,268	4,378	4,743	1,343	4,543
Receipts of Municipalities for Highways	\$157,112	\$130,819	\$15,309	\$27,332	-	\$31,124	\$23,620	\$24,904	\$63,183
(\$000)/Mile	\$16.97	\$14.39	\$4.63	\$9.79	-	\$7.11	\$4.98	\$18.54	\$11.55
Disbursements by Municipal- ities for Highways, 1979	\$148,770	\$132,697	\$14,482	\$25,155	-	\$31,656	\$22,709	\$24,904	\$61,453
(\$000)/Mile	\$16.07	\$14.60	\$4.38	\$9.01	-	\$7.23	\$4.79	\$18.54	\$11.23

Sources:

1980 mileage figures: Federal Highway Administration, Highway Statistics 1980 (Washington, D.C.: Government Printing Office, 1980), Table HM-10, p. 107.
 1980 N.M. Mileage figures: N.M. State Highway Department, Road and Street Mileage in New Mexico (Santa Fe, NM: Planning Bureau, January 1, 1981) p. 1
 1980 Colorado figures: Colorado Department of Highways, Division of Transportation Planning, Statistics Section.
 1980 Mileage figures: Federal Highway Administration, Highway Statistics 1979 (Washington, D.C.: Government Printing Office, 1979), Table M-1, p. 100.
 Receipts for State Administered Highways: FHWA, Highway Statistics 1980, Table SF-3, p. 71.
 Disbursements for State Administered Highways: op. cit., Table SF-4, p. 72
 Receipts of Counties for Highways: op. cit., Table IF-2, p. 92
 Receipts of Municipalities for Highways: op. cit., Table UF-1, p. 94
 Disbursements by Municipalities for Highways: op. cit., Table UF-2, p. 95

TABLE VI
Surface, ADT and VMT
1979*

STATE SYSTEM (Rural & Urban)	Arizona	Colorado	Idaho	Montana	New Mexico	Utah	Wyoming	Average w/o NM
Total Miles	6,073	9,157	5,122	6,736	5,090	5,580	6,252	6,287
Surfaced Miles**	6,055	9,157	5,111	6,722	5,081	5,550	6,252	6,275
% Surfaced	99.7	100.0	99.8	99.8	99.8	99.5	100.0	99.8
VEHICLE MILES OF TRAVEL (VMT)								
Total Rural VMT (000,000)	9,178	9,366	4,825	5,310	3,025	6,707	4,526	5,711
Rural Federal Aid Highways (000,000)	8,481	7,428	3,871	3,823	2,638	5,677	3,543	4,708
% of Total VMT	82.4	79.3	80.2	72.0	87.2	84.6	78.3	82.4
Rural Non-Federal Aid Highways (000,000)	697	1,938	954	1,487	387	1,030	983	1,004
% of Total VMT	7.6	20.7	19.8	28.0	12.8	15.4	21.7	17.6

Sources: State System: Federal Highway Administration, Highway Statistics 1979 (Washington, D.C.: Government Printing Office, 1979), Table SM-1, P. 108

Vehicle Miles of Travel: op. cit., Table VM-2, P. 139

* N.M. 1979 data were used for this table since 1980 data were not reported in this manner.

** Surfaced roads include: gravel or stone roads, bituminous surface - treated roads, mixed bituminous roads, bituminous penetration roads, bituminous concrete, sheet asphalt or rock asphalt roads, portland cement concrete roads, and brick roads.

Chairman DOMENICI. Madame Secretary, in your department, who handles the funding and planning for the airports? Is it your department?

Ms. ESPINOSA. Yes, sir.

STATEWIDE INVENTORY OF AIRPORT PRIORITY AREAS

Chairman DOMENICI. Do you have an ongoing inventory of the airport needs in the State, as claimed by the local communities, that might be made available?

Ms. ESPINOSA. Yes, sir, I believe we do. We have a statewide plan, and we also have the priorities areas at the various airports, which can be made available to you, Senator, and Representative Skeen, regarding the priority airport areas and what their needs will be, and their applications to the State for matching funds on any maintenance and rehabilitation programs.

Chairman DOMENICI. If you could make that available, it would be very helpful.¹ For instance, we know that sooner or later, the Ruidoso problem has got to be solved. It is not for me to solve; it is for the local community and those who have been in a position of having some difference of opinions to resolve it. But I would like to know, if we resolve it, how close would they be to funding out of the new user funds that are established nationally. That fund has also increased dramatically, but I am sure there are a huge number of priority applications that are pending, and I think we ought to tell those people as soon as we can, "The longer you wait, do not think you will simply fund it next month." It may still be 3 or 4 years, and I think we would like to have that information.

Ms. ESPINOSA. Yes, Senator. I will get that information for you. If I might just speak about the Ruidoso Airport, the Sierra Blanca Airport, I was down there just a couple of days ago to speak with some of the individuals who have been involved over the last—I hate to say it—several years on this whole project. I do believe, Senator, that that decision will be made in the very near future. For the sake of the community and the State as a whole, Ruidoso needs an airport. I think we are coming to some conclusions. I think all of the representatives agree that a decision will be made and will be made very soon. It appears that those funds will be available for that program, including the State matching funds.

Chairman DOMENICI. Hopefully.

We are going to take a 15-minute recess, and then we will take the last panel, please.

[Short recess.]

Chairman DOMENICI. We are ready to take our next panel. We are delighted to have you here, and we are very sorry that we had to make you wait, but obviously, somebody must go first and somebody must go last.

We are delighted to have you with us, Colonel. You have not been with us in New Mexico for too long, but right up front, I want to say to you that everything we hear, you are doing an excellent job in responding to our people and getting their input and listening to them with reference to the projects you supervise and that

¹ See p. 230.

you are planning. We would appreciate you making your remarks as brief as possible, but we surely want to hear from you, and we will make your statement part of the record.

STATEMENT OF LT. COL. JULIAN PYLANT, U.S. ARMY CORPS OF ENGINEERS

Colonel PYLANT. Thank you, Senator.

I will summarize my remarks rather than going through the complete testimony and submit it for the record.

A couple of places, I would like to be precise and complete in that portion of the text, but I will briefly go through this.

WATER RESOURCES

Demands upon the Corps of Engineers for water resources construction activities, new projects, as well as operation, maintenance, and rehabilitation of old projects, continue to increase, and obviously are increasing at a time when budget possibilities are not heading in the same direction.

Here again, in the Southwest, you have certainly seen projected growth. The 1980 population of approximately 1.3 million is projected to increase to the neighborhood of 1.8 by the year 2030. Population increases such as this will inevitably result in increasing demands upon water resources and certainly, the agencies and managers responsible for these functions.

Traditionally, controversy surrounds water projects, be they for water supply, flood control, sediment retention. That is part of the business. As population increases, certainly, the recreation, aesthetics, fish and wildlife issues will get more attention.

Our present machinery for water resources management and development in some ways appears inadequate today, and that machinery has simply not evolved fast enough to accommodate the needs we see in front of us. Some of that blame has to rest with the engineering community. Things that we have known—we are not surprised by the infrastructure problems that we hear discussed today. We have known of these, maybe accepted them too much, and failed to articulate to the decisionmakers and policymakers the problem, because the problem we see today certainly does not surprise engineers.

Of course, my interests are in the water resources area but certainly are geared to highways, railroads, and other physical facilities. As I indicated, I think that if we properly articulated maybe the country would not be as surprised as it appears to be within the past couple of years as to what we are facing.

One of the problems with water resources concerns the national cost-sharing policy. That is one of the reasons that issues such as water conservation, water transport incidental to the Sperry pipeline operation, major aquifer completion, have become so critical, and certainly, those types of problems affect the Southwestern United States.

I will point out there have been no omnibus authorizations for new Corps of Engineers projects since 1976, and the effect of that prolonged backlog is affecting and will continue to affect the agency and those programs for a long time into the future.

RELATIVE PRIORITY FUNDAMENTAL PROBLEM

The fundamental problem, of course, is the matter of relative priority in the overall Federal budget for the allocation of scarce resources and available funds. Certainly, in the last few years, funding has been constrained. The Assistant Secretary of the Army for Civil Works, Mr. William R. Gianelli, has indicated repeatedly that the Federal Government is no longer able to carry the major share of funding for water resources projects which are needed by the Nation.

We currently have an existing backlog of approximately \$10 billion in the Corps of Engineers water resources construction for new projects. I want to be specific here. I am talking about simply a backlog upon completion of scheduled portions of Corps of Engineers projects that are included in the fiscal year 1984 budget request. There are other, larger numbers associated with budgets that are authorized but not funded, and there are additional categories of projects which are pending authorization.

Chairman DOMENICI. There are some pending as authorized but unfunded that are 25 years old, too.

Colonel PYLANT. That is correct, Senator.

There is an additional backlog for maintenance and repair, operation and maintenance of existing projects. You hear different figures, but I will use the one General Heiberg did most recently, talking about that we can get by the instant problems with about a \$3 billion program. Others would look at that backlog and show it to be dramatically larger even than that. For the Albuquerque District, our O&M backlog is approximately \$15 million. Additionally, there are some \$30 million worth of modifications to existing structures, which are required under the criteria established by the national dam safety program.

I will point out that the recently enacted jobs bill, Public Law 98-9, has provided for about \$1.1 million of that backlog I alluded to in the Albuquerque District.

PROPOSALS DEVELOPED TO ADDRESS BACKLOG IN WATER PROGRAMS

Assistant Secretary Gianelli has developed three fundamental proposals for addressing the backlog of Corps of Engineers water resources projects. The first proposal would be to aggressively pursue deauthorization of water resources projects for which construction has not been initiated and for which economic feasibility or local support is weak.

Chairman DOMENICI. I am with you. I got that bill in—I have had it in for 3 years, and no one is interested, but they will get interested pretty soon.

Colonel PYLANT. I certainly see interest from the administrative side in my area, Senator.

Second, the Assistant Secretary has proposed to expedite planning via a streamlined, two-phase planning process. The new process would require that local sponsors cost-share a substantial portion of new water resources survey investigations on a 50-50 basis beyond the recon level survey, and that certainly runs counter to the kinds of problems that communities are facing as I hear other testimony here today, and will exacerbate the problems they see.

The third part of his proposal would involve innovative financing for actual project construction. This brings me to the provisions of Senate bill No. 532, which was introduced by Senator Domenici.

Section 102 of the bill, in addressing maintenance, repair and building of water resources projects, closely parallels several acute concerns within the Corps of Engineers Civil Works program. General Heiberg, in Albuquerque on the 22d of February, highlighted some of the concerns. The concept of infrastructure banks as defined in the bill appears to parallel Assistant Secretary Gianelli's proposals for innovative financing and maybe is a tangible response to the pleas for innovative financing that we have heard for some time.

INFRASTRUCTURE BANK IDEA ENJOYS SUPPORT

The concept of infrastructure banks also enjoys considerable support in the engineering economic literature, and I have a section that has looked at it closely, and they confirm that parallel.

I am convinced that the Federal, State, and local sectors of government can work together productively on the basis of a mechanism such as would be provided by Senate bill No. 532, and do so to serve the water resources needs of taxpayers nationwide, as well as within New Mexico. I also note that whomever can develop a mechanism to break the present backlog of water projects, water resources construction needs, as well as operation and maintenance needs of existing facilities, will serve one of the most sincerely pressing public needs that we can presently identify in water resources development and management areas.

I think the other testimony has indicated that it would certainly apply to other sectors of national infrastructure needs.

I think it may be appropriate to point out that our neighboring State of Colorado has recently established a water resources and power development authority. That State agency has been funded in the amount of some \$30 million, and I think with some very minor modifications of its charter, it could assume many of the functions of infrastructure banks as defined in the bill No. 532. A similar move within other States would seemingly improve the overall national postures of States' abilities to take full advantage of the provisions of Senate bill No. 532.

WATER SUPPLY FOR HIGH PLAINS

Let me conclude with comments on some of the needs in this area. Some of these water resources requirements need attention in the very near future. A reliable water supply for the High Plains certainly is one of the most critical issues. The summary report for the High Plains-Ogalalla study indicated that the water transport investigation performed by the Southwestern Division of the Corps of Engineers that it is technologically feasible to import water. One of the most challenging scenarios brought forth in that report would provide a series of interstate water transfer strategies. Certainly, for the kind of agriculture supported in this portion of the High Plains, something of that scope would be necessary to continue the agricultural interest in this area.

There are others of lesser scale, but equally important challenges in this area—the Tucumcari irrigation project and the sale problems and desalination potential on the Pecos River. Others were mentioned here earlier today. I think all of those kinds of concerns have a chance of being addressed under the provisions of the type bill you propose.

I would be glad to answer any questions, Senator.

Chairman DOMENICI. We will make your statement part of the record. I do have some questions, but I think we are going to get to the panelists first, and then we will come back, if that is all right with you.

INFRASTRUCTURE ISSUES

Statement of District Engineer
Albuquerque District, Corps of Engineers
31 March 1983

Overall demands upon the Corps of Engineers for water resources construction activities, new projects as well as operation, maintenance and rehabilitation, are continuing to increase with little apparent regard for the budget situation. The Southwestern United States, and New Mexico in particular, are located well within the sun belt region of projected dramatic population increases. New Mexico's 1980 population was approximately 1.3 million persons. That population is expected to approach 1.8 million persons in the year 2030. Those population increases will inevitably result in increasing demands upon water resources and therefore upon the water resources agencies and managers. Controversies, needs and infrastructural problems relating to the traditional issues of water supply, flood control, sediment retention, and streambank stabilization date practically to the very beginnings of our water resources programs. As the urban population increases, the recreation, aesthetics and fish and wildlife issues are also getting more attention.

Our present machinery for water resources management and development appears to be inadequate in many ways. For whatever reasons, that machinery has simply not evolved rapidly enough to accommodate many of today's most pressing problems. I can place some of the blame for that situation squarely with the engineering community. We have been acutely aware of both the physical deterioration of our existing facilities or "infrastructure" and the failure to respond to the ongoing need for new development on a nationwide scale. We have perhaps failed to carry the importance of the problem sufficiently high into the political arena where its solution lies. Infrastructural problems are prominent in the water resources area, as is the case with our highways, railroads and other physical facilities. Given a more aggressive approach from the engineer sector, many of the problems would not have appeared to arise so recently and with such little warning. The lack of a national cost-sharing policy is one of the significant reasons that such issues as water conservation, water transport incidental to slurry pipeline operation, and major aquifer depletion have become so critical, especially in the western states. Let me remind you that there have been no new authorizations for Corps of Engineers projects since 1976, even though the Chief of Engineers has favorably recommended over 150 projects for authorization.

The most drastic fundamental problem is, of course, the matter of relative priority in the overall Federal budget for the allocation of available funds. Funding from the Federal sector has, in the recent past, been reduced severely. Assistant Secretary of the Army for Civil Works, Mr. William R. Gianelli, has indicated repeatedly that the Federal Government is no longer able to carry the major share of funding for water resource projects which are needed by the Nation. We have an existing backlog of approximately 10 billion dollars in new Corps of Engineers water resources construction nationwide. This is merely the backlog attendant upon the completion of the scheduled portion of those Corps of Engineers projects which are included in the FY 1984 budget. This is without mentioning the funding requirements for those potential projects not yet authorized. Additionally, there is a significant

backlog nationwide for the repair, rehabilitation and additional maintenance of completed water resources facilities. For Albuquerque District, the operation and maintenance backlog could approach 15 million dollars. Some 30 million dollars in modifications of existing projects to serve the needs of Dam Safety have also been identified.

The recently enacted Jobs Bill, Public Law 98-9, has provided for about 1.1 million of the overall O&M backlog for Albuquerque District. Additional funds could be used to offset these backlogs within the Albuquerque District as well as the Corps nationwide. However, the current FY 84 budget has been formulated to be consistent with the Administration's assessment of National priorities for Federal investment and the objective of avoiding large budget deficits and the serious adverse effect that Government borrowing is having on the National economy.

Assistant Secretary Gianelli has developed three fundamental proposals for addressing the backlog of Corps of Engineers water resources projects. The first proposal would be to aggressively pursue de-authorization of water resources projects for which construction has not been initiated and for which either economic feasibility or local support is weak. The primary tool for an accelerated de-authorization program would be modification of Section 12 of the Water Resources Development Act of 1974. Secondly, the Assistant Secretary has proposed to expedite planning via a streamlined, (2-phase) planning process. The new planning process would require that local sponsors cost share a substantial portion of new water resources survey investigations on a 50/50 basis. It is presumed that this kind of planning process would assure that scarce Federal funds are not wasted on studies which are unlikely to produce implementable plans or to be subject to less than full support by a local sponsor. The third proposal would involve innovative financing of the actual project construction.

This brings me to the provisions of Senate Bill No. 532, which was introduced by Senator Domenici recently. Section 102 of the bill, in addressing maintenance, repair and building of water resources projects, closely parallels several acute concerns within the Corps of Engineers Civil Works program which were also addressed by Major General Heiberg, Deputy Chief of Engineers, during his keynote speech of February 22, 1983, for National Engineers Week in Albuquerque. Further, the concept of Infrastructure Banks, as defined in the bill, appears to parallel Assistant Secretary Gianelli's proposals for innovative financing. The concept of Infrastructure Banks also enjoys considerable support within the engineering economic literature. I am convinced that the Federal, state and local sectors of government can work together productively on the basis of a mechanism such as would be provided by Senate Bill 532, and under Assistant Secretary Gianelli's cost sharing concepts, to serve the water resources needs of the taxpayer nationwide as well as within New Mexico. I also note that whomever can develop a mechanism to break the present backlog of water resources construction as well as operation and maintenance needs will have served one of the most sincerely pressing public needs that we can presently identify in water resources development and management as well as other sectors of national infrastructure.

I think it appropriate at this time to note that our neighboring state of Colorado has recently established a Water Resources and Power Development

Authority. The new state agency has been funded in the amount of some 30 million dollars and appears, perhaps with some minor modifications of its charter, to be capable of assuming many of the functions of Infrastructure Banks as they are defined in Senator Domenici's bill. A similar move within other states would seemingly improve the overall national posture to take the fullest advantage of the provisions of Senate Bill 532.

Let me conclude my remarks here today with a partial survey and recapitulation of some of the water resource situations within eastern New Mexico which urgently need attention in the very near future. A reliable water supply for the high plains is perhaps one of the most critical issues. The summary report for the High Plains-Ogalalla study included the water transport investigation of the U.S. Army Corps of Engineers Southwestern Division. The survival of the substantial body of agricultural economic activity in the High Plains of eastern New Mexico will soon require a water resources development fix. One of the most challenging type scenarios brought forth in the report would provide that fix via a series of interstate water transfer strategies. The Corps of Engineers has now demonstrated that there is technical engineering feasibility for that kind of water transfer. The State of New Mexico is estimated to require approximately 302 thousand acre-feet of water per year to restore and maintain those high plains lands that would otherwise go out of irrigated agricultural production by approximately the year 2020.

Two other worthy infrastructural problem areas are those of adequate water for the Tucumcari irrigation project and the salt problems and de-salinization potential on the Pecos River. On a somewhat broader basis yet still within the State of New Mexico there are substantial remaining dam safety concerns which can eventually be addressed only via construction activity.



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT CORPS OF ENGINEERS
P. O. BOX 1580
ALBUQUERQUE, NEW MEXICO 87103

REPLY TO
ATTENTION OF

April 6 1983

Engineering and Planning Division
Environmental and Evaluation Section

Honorable Pete V. Domenici
United States Senate
Washington, DC 20510

Dear Senator Domenici:

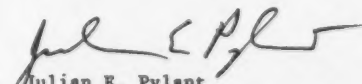
On 31 March 1983, I submitted my statement pertaining to Infrastructure Issues at your field hearing in Roswell, New Mexico. A copy of that statement is attached for convenient reference. I did not discuss water conservation at your hearing but various members of your water resources infrastructure panel did express significant concern for water conservation. I therefore respectfully offer the following additional information for the record of that hearing.

Water conservation became fully integrated into the Corps of Engineer's water resource project planning and operation following initiatives outlined in the President's Water Policy message to Congress on June 6, 1978. For the purpose of internal objectiveness the Corps has defined water conservation as "any beneficial reduction in water use or in water losses." It can be easily demonstrated that existing water resources development projects provide the means of stretching meager water supplies over a longer period by providing storage during periods of surplus to be used during periods of shortage. However, it is not so easy to objectively examine prevailing water management practices and water use patterns to determine if they result in the most efficient overall use of water.

In order to examine existing practices and potential for improvements offered by existing and possible new facilities the Albuquerque district initiated study of water conservation on the Rio Grande and Tributaries above Fort Quitman, Texas in Fiscal Year 1981. Our draft Plan of Study is currently being reviewed by our higher authority and is expected to be ready for public release within the next few weeks. The conservation study report is scheduled for completion in 1984. Our objective in this study is to identify opportunities to more effectively utilize and therefore extend the available water supply of the Rio Grande basin.

Thank you for this opportunity to inform you of our program. Please let me know if I can be of further assistance.

Sincerely,


Julian E. Pylant
Lieutenant Colonel, EN
District Engineer

Attachment

Chairman DOMENICI. Mr. Phelps Anderson, Diamond "A" Cattle Co., we will be pleased to hear from you today.

STATEMENT OF PHELPS ANDERSON, FORMER STATE REPRESENTATIVE AND PRESIDENT, DIAMOND "A" CATTLE CO.

Mr. ANDERSON. Mr. Chairman, and Congressman Skeen, I thank you for the opportunity to present my ideas on the Public Investment Incentive Act. I hope my comments will be as meaningful and fluid as the resource itself.

Clearly, most New Mexicans learn at an early age the importance of our water resources. I know in my own household, that education process is done on a daily basis when we find the garden hose left on after a full night and the previous day's play. But more realistically, in our farming community and in agriculture, we deal with water and the water problems in trying to meet the thirst of our fields of alfalfa, cotton, and other crops.

I do think New Mexico is fortunate to have the water resources that she has, and in my opinion, we could be really in far worse shape.

This afternoon, I had hoped to present the committee with three ideas, the first being that the individual States must continue the responsibility of controlling their own water resources; second, that water conservation, particularly in agriculture, be further developed as a local, State, and national priority; and third, as the increasing demand for water resources accelerates, that the necessary infrastructure for this transition must be put in place today.

The first idea is all too familiar to New Mexicans, especially those in the Mesea Valley. Earlier this week, a front page article in the El Paso Times described the present efforts in the U.S. Congress to restore and strengthen each individual State's control over water resources. I believe the State responsibility over water resources is a critically necessary ingredient to accomplish the second and third ideas which I wish to address.

AGRICULTURE NEEDS WATER CONSERVATION PROGRAM

Water conservation must be developed, particularly in agriculture. The large amount of water used in agriculture is no secret, and I will give you the following brief examples. The water bill for a typical breakfast of eggs, bacon, buttered toast, and milk amounts to 510 gallons of water. Production requirements, not including water used in harvesting, processing, transportation, and home preparation for other important items in the daily diet, such as a half-pound of steak, is 2,600 gallons of water. For those who prefer pork or chicken, heaven forbid; it is only 410 gallons of water for 4 ounces of pork or 8 ounces of chicken. Interestingly enough, it takes 100 gallons of water to produce 1 pound of watermelon.

So, in my opinion, clearly, the significant gains in water conservation can only be realized in agriculture. At present, the inducement from the governmental sector is fragmented and modest at best. The agricultural sector of New Mexico's economy lacks the capital resources to make the desired changes to more conservative farming practices. And I would emphasize the fact that there are

many farmers who would desire to make the change and simply do not have the resources.

I would urge——

WATER CONSERVATION TECHNOLOGY AVAILABLE

Chairman DOMENICI. Is there present technology to make the change?

Mr. ANDERSON. In my opinion, Senator, there are many water-conservative practices that could be adopted to realize substantial savings in water uses in agriculture, and I would urge that local, State, and Federal governments continue to expand the incentives programs to expedite this water conservation. The capital requirements for laser leveling, sprinkler, trickle, drip irrigation and other forms of water conservation farming practices simply does not exist today in agriculture.

I would suggest that the Public Investment Incentive Act of 1983 include all water conservation systems as eligible public infrastructure investments. In both the long and short run, water conservation is a public infrastructure issue. Unfortunately, again, today in our agricultural economy, there simply is not the capital required to make these investments.

I believe water conservation systems in every sector of the economy should come under the purview of this legislation.

Every water conservation effort made today will provide public benefits tomorrow which we cannot fully measure at this time.

To the third point, let me preface my remarks by saying that each and every community in New Mexico has very real and current water issues to deal with. Each local newspaper increasingly carries articles concerning water. At present, Carlsbad and Roswell are in a dispute over water of great importance to both communities. Ruidoso is actively trying to deal with the unique municipal water demands which peak in the summertime. Tularosa has problems with their water quality. Lea, Roosevelt, and Curry Counties are working to preserve their farming community and facing a declining water table. New Mexico and El Paso are in litigation over a water dispute of great significance to both parties.

I suppose my point in mentioning these facts is to stress the point that in my opinion, few New Mexico communities today share the exact identical water problems. As an agricultural user of water, I do not look forward to the turmoil ahead concerning the transfer of water out of agriculture. For example, the thought of the New Mexico municipality exercising eminent domain over a farmer's water is certainly not a pleasant thought to anyone. However, under the present New Mexico law, a competitive marketplace does exist for the transfer of water to and from agriculture into other uses.

Chairman DOMENICI. Phelps, could I stop you for a minute? Your list of problems is certainly intended only as an example. Sitting right by you there, Jeff could tick off about 10 more in the other parts of the State. But I think the conclusion that there is very little similarity between the problems is probably right. I mean, up north, we have the Mont suit, concerning Pueblo winter rights; we have up in the Four Corners area whether we can extend the time

that we can apply the San Juan diversion water—if we do not get an extension, we do not have the infrastructure to deliver it and use it. Everywhere we look, we think of it, and there is some more. So I think you are right. I just want the record to reflect that just in this one State, the list is much, much longer than you have described, and they have all different colorations and variations of complexity and interrelationships and arguments between other entities.

Mr. ANDERSON. I would also wish to point out, Senator, that the transfer of water is not only a one-way street out of agriculture. Today, in Sierra County, there is an important new agriculture venture which is underway using water from the city of Albuquerque to create private investment and employment in Sierra County in a viticulture project. But again, the free marketplace under New Mexico water law allows water to follow a course to the user willing to pay the highest price. As water is transferred from agriculture to municipal and industrial uses, I believe the municipalities must also be efficient in using the resources. Inefficient municipal and industrial water systems will require a greater number of farms to be dried up, and therefore, the unnecessary loss of jobs and agriculture.

SUPPORTS BILL

I endorse the concept of the Public Investment Incentive Act, as it offers financing for municipalities to provide efficient and water-conservative systems. I believe at present, no New Mexico municipality has the financial resources to accomplish this. And water conservation cannot be a practice that we simply burden upon our agricultural users of this resource.

Unfortunately, time constraints do not permit me to discuss water quality issues that really go hand-in-hand, in my opinion, with water conservation issues. But Senator, I think that pretty well concludes my remarks.

Chairman DOMENICI. Thank you very much.

Congressman Skeen, do you have any questions?

Congressman SKEEN. I think I will wait. I am so enthralled with this dissertation on water. This is my favorite topic, and I just want to hear the rest of it, so go ahead.

Chairman DOMENICI. Jeff?

STATEMENT OF JEFF FORNACIARI, STATE OF NEW MEXICO ENGINEER REPRESENTATIVE

Mr. FORNACIARI. Chairman Domenici, Congressman Skeen, thank you for the opportunity to appear before the committee.

WATER MOST IMPORTANT IN NEW MEXICO

Listening to the other speakers, I have become abundantly convinced that water is the sole and most important object within the State of New Mexico for the infrastructure and public welfare of the State. Without water supply, of course, we cannot maintain our existing development, nor can we look toward the prospect of future development—population growth, economic development—

and it really does become the sole problem in my mind as to what will develop within the State.

I am not going to discuss specific projects, I am not going to discuss the economics, financial, or engineering feasibility of projects. Instead, I will discuss water supply within the State in a general sense and try to address supply problems within southeastern New Mexico.

I would like to point out that, as Senator Domenici mentioned, there are many individual, unique problems within the State of New Mexico that concern water supply, and you cannot have a simple state or regional approach to solve or address those problems. You must have a flexible system which allows the State to adjust within each locality to allow that locality to develop what it needs to provide for water supply. In a general sense, the State of New Mexico has a terribly unevenly distributed water supply. There are regional, there are seasonal, and there are yearly discontinuities in supply. There are many areas that do not have adequate supplies for present population; there are more areas that do not have adequate supply for future populations and economic growth. However, there are some areas that do have sufficient water. They happen to be located in the mountains, and the population does not happen to be located in the same place. Therefore, we have a problem.

EVERY MAJOR RIVER IN STATE FULLY APPROPRIATED

We also have the situation where every major river in the State is fully appropriated. In addition, every major river in the State is subject to and controlled by an interstate compact. Therefore, when we develop those waters, we are not only limited to the amount of surface water we can use, but we are also limited to the amount of hydrologically connected ground water that can be developed within the State. There is another problem. How much can New Mexico use? We have litigation pending—and I will discuss that later—concerning this area of the State.

Because of our full appropriation of surface waters, our nearly full appropriation and use of the development of ground waters, we have a situation that, in order to establish new uses, we must retire or terminate existing uses of water. We are not creating new water supplies. We are simply transferring from one place to another, subject to administrative regulation and control.

The tension that has developed between the irrigators, municipal and industrial users, energy users, as mentioned by Mr. Anderson—and I appreciate that tension, but it is something that is going to exist in the future as well as in the present—there are, as Mr. Anderson indicated, water quality problems. I will not enumerate the water quality problems, but they do affect supply, and they have a very negative impact on supply. We do have, as well, several interstate lawsuits that could have a negative impact on the State's water supply. I will give you three examples: *Colorado v. New Mexico*; *El Paso v. Reynolds*, which some people think concerns the Rio Grande, but not Judge Braton; and *Texas v. New Mexico*, concerning the Pecos.

MICROCOSM OF STATE'S WATER PROBLEMS

I would like to now focus on the water supply situation in southeastern New Mexico, which I consider a microcosm of the State's needs. You have to take each element of southeastern New Mexico's water development. First, of course, it has a compact, the Pecos River compact. That compact limits development, controls groundwater, and has a lawsuit pending. Those three things are not unique to the southeastern part of the State, but they are exacerbating the water supply situation.

We have a water supply that is fully or perhaps overappropriated. That does not help. New water uses can only be facilitated through retirement of other water uses—perhaps irrigation is the only economically feasible retirement within this area.

Another element is interstate litigation. Presently, we are being sued by Texas concerning the Pecos River compact. That case was argued before the Supreme Court yesterday. I have heard the argument went well, which hopefully will result in a favorable verdict. But if we do not prevail, then we have the possibility of terminating some uses within New Mexico in order to increase deliveries under the compact to Texas—a not happy or in any way favorable prospect, I suppose, but we have to face that.

ABORIGINAL PRIORITY CLAIMED

We have one case with two aspects that are fairly important to this locality. One of them concerns Indians. That is one part of the *State v. Lewis* litigation. The Mescalero Indians are claiming winter's rights, which are reservation rights related to the Federal Government's creation of the Mescalero Reservation. They claim that those rights are approximately 17,000 acre-feet, and they precede all non-Indian rights in the area—in other words, an aboriginal priority. If they are successful, that could result in some termination of uses in the Rio Ruidoso, Rio Hondo area, as well as the Pecos area—as well as another part of the Lewis case which involves terminating rights within New Mexico, and that is the Carlsbad Irrigation District's priority call. As you gentlemen are well aware, we are a prior appropriation State; we have the priority doctrine, and Carlsbad Irrigation District claims to have a priority that is being unfilled and are attempting to get that priority fulfilled by a call on junior uses. If that call is successful, there are certain water uses that must be terminated above Carlsbad in order to provide supply to them.

Chairman DOMENICI. My roadrunner turned upside-down with your testimony.

Mr. FORNACIARI. Is that bad?

Congressman SKEEN. Somebody has a water dowser.

Chairman DOMENICI. It got so scared it turned upside-down.

Mr. FORNACIARI. Senator, I hope your roadrunner recovers.

Finally, just to finish this presentation, there is a High Plains study which involves providing water to the eastern part of the State, which requires water to replace it, water being mined, which on a long-term basis could exhaust it. That is favorable, perhaps, and I think that that study and any Federal programs coming out of the study could benefit the State greatly.

In summary, I do not want to be the prophet of doom. I think that we have a decent position in most of the litigation I have been describing. I think that there are many possibilities for augmenting our supply as well as conserving to stretch our supply out. I think the infrastructure that is proposed in S. 532 is a well-conceived idea that provides for diversity within the State and allows local solutions to local problems.

In closing, I would like to mention just how important water is to the State. Driving down here today, I noticed two signs on the highway that said, "Watch for Water"—which I have.

Thank you. [Laughter.]

Chairman DOMENICI. Thank you. Are you a lawyer?

Mr. FORNACIARI. Yes, sir.

Chairman DOMENICI. I have a question, but let me hear first from Mr. Owen. We have kept him waiting a long time.

STATEMENT OF ROBERT OWEN, CONSULTANT AND FORMER CITY MANAGER, CITY OF ROSWELL, N. MEX.

Mr. OWEN. Thank you, Senator Domenici and Congressman Skeen. I will purely localize it now and talk about what Roswell is doing about water.

The effective use of our limited water resources becomes more critical as we attempt to support the growth we are experiencing in our area. The Roswell program is designed to insure that our long-range plans will provide an adequate supply, and to cooperate with the other users in protecting the integrity of this invaluable resource. We are anxious to work with all concerned entities toward this mutual goal.

WATER MANAGEMENT MASTER PLAN

Prior to 1974, the Roswell system could be classified as a crisis-to-crisis effort. No effective steps had been taken to assure that we would stay ahead of water demand. Then, in 1975, the Roswell City Council contracted with a recognized engineering firm to develop a comprehensive, long-range, water master plan for Roswell. This plan encompassed cost-effective analyses of source, production, control and distribution to determine phased increased facilities and production as growth demands. As such ambitious programs must be funded, the city's rate structure was and is being raised to provide the money to support our revenue bond indebtedness, as well as inflationary requirements.

This fiscal year, the water system revenue bond service amounts to \$1,183,537, with the last bonds scheduled to be retired in June 2002. In the past 5 years, we have purchased 1,124 acres of high-quality water rights from area farms, and pay out of current water systems income an additional \$250,000 per year toward this debt. Negotiations are in process to acquire other good water rights in the area for feasible incorporation into our system—water rights to be used in future years.

Chairman DOMENICI. How much is that total debt that you are paying \$250,000 per year on?

Mr. OWEN. That is purchasing one of them that we have not paid for, and we paid a little over \$1 million for that one, and it runs for about 3 more years.

Chairman DOMENICI. What does that run per acre-foot?

Mr. OWEN. We gave \$3,100, I believe.

ACQUISITIONS TAKE WATER FROM FARMLAND

It should be noted that such acquisitions take water off the farmland, as other representatives have mentioned, so we are particularly sensitive to the needs and opinions of our farmers. We recognize their value to the local economy and solicit their support for our water management program.

Congressman SKEEN. They threw the land in.

Mr. OWEN. Sir?

Chairman DOMENICI. He said they gave you the land along with it.

Congressman SKEEN. They just gave you the land.

Mr. OWEN. Some of the purchases include land.

Congressman SKEEN. Some do, and some don't, then?

Mr. OWEN. Right. Our particular problem is the quality of water that we can put in the system is very limited in this area, and of course, you have to wait until you have a willing seller, and hopefully, we will never have to condemn any water rights, and so that is the reason we are trying to stay ahead of the ballgame.

We recognize the farmers' value to the local economy and solicit their support for our water management program. We have not been totally successful, particularly when you get down south further with some other entities.

DESALINIZATION TEST FACILITY

The Roswell Desalinization Test Facility is another area of our continuing concern for the future. The city has been involved since the inception of the plant and hopes to actually expand the operation in cooperation with New Mexico State University's Water Resources Research Institute, and with manufacturing firms dedicated to the development of more cost-effective methods of converting brackish water into a variety of higher and better uses. This committee is probably aware of the recent action of the New Mexico Legislature to fund this New Mexico State University research regarding salt tolerant species, aquaculture, and blending to stretch water supplies.

COMPUTER MODEL OF WATER BASIN BEING CONSIDERED

In closing, I want to mention a project that we have in mind, and this one could be invaluable in the long run, yet it is beyond our funding ability. It involves developing a computer model of our basin. This model would incorporate all of the scattered and diverse information such as recharge, rainfall, water production, water use, water levels, and quality variations over the past 75 or so years. We expect the model to show the effects on other users and supply, by changes in production, area by area. Such a model should show the most effective reduction or increase, case by case,

for overall benefit. This system is a vital concern when we are faced with such a significant impact as the proposed Indian water program as planned in our recharge zone to the west. It must be recognized that Roswell's water program is an integral part of the basin which must be treated comprehensively by a higher level of government.

I want to thank the Senate Budget Committee for allowing these remarks on behalf of Roswell's water program.

Chairman DOMENICI. Thank you very much, Mr. Owen.

Mr. Whitford, we would be delighted to hear from you.

Mr. WHITFORD. Thank you, Senator.

STATEMENT OF JAMES WHITFORD, CITY MANAGER, CITY OF ROSWELL, N. MEX.

Mr. WHITFORD. I guess, as I find myself at the end of the testimony this afternoon, it is fitting that I limit my remarks to the "end" of the water use cycle, and that is wastewater treatment.

WASTEWATER TREATMENT FACILITIES NEED REPAIR

When this hearing began this afternoon, you heard from Mayor York about how periods of economic expansion and contraction over the past three decades have resulted in an acute, comprehensive infrastructure problem for Roswell. I will not reiterate his remarks beyond reminding you that the city is today faced with having to play catchup while it at the same time must provide for growth. No component difficulties better illustrate this than those involving wastewater treatment. As is the case with the preponderance of its infrastructure, the city's wastewater treatment facilities were mainly developed during the 1950's. The existing treatment plant, for the most part constructed in 1951 with some enhancement in the early 1960's, and partial rehabilitation in the mid-1970's, is currently experiencing hydraulic overloads within the system, and many of the unit processes have deteriorated both mechanically and structurally. The plant is deficient in terms of treatment capability required presently and for anticipated growth.

BEEN WORKING OUTSIDE PERMITS SINCE 1977

The plant has also been continually out of compliance with its Federal EPA permit since February 1977. Such noncompliance in part involves the quality of effluent. So serious is this noncompliance that the city was recently compelled to agree to a consent decree with the EPA and the U.S. Department of Justice, and this consent decree in part entailed a fine of \$20,000 against the city. Further, the New Mexico Environmental Improvement Division has filed adverse comments with the Federal Housing Administration, and this has had the effect of obstructing the approval in Roswell. On a positive note, the EID had this year accorded highest priority to the construction of a new wastewater treatment plant here. Based on this, if the city can additionally satisfy technical requirements associated with funding, it should receive a Federal Public Law 92-500 grant-in-aid, with a formula contribution from the State for constructing a new plant.

Chairman DOMENICI. How much is that going to cost?

Mr. WHITFORD. The estimate of the cost of the plant will be approximately \$14 million construction value. Of that \$14 million, most of those costs can be funded through the Public Law 92-500 grant with the State contribution amounting to about 75 percent of the cost. So, the Federal and State contribution will amount to approximately \$11 million.

SEWERS NEED REPAIRS

Besides the plant problem, most of the city's interceptor sewers are of inadequate capacity to carry present or future flows. Many of the sewer lines have low velocities, reverse grades, and are structurally deteriorated. Some of these lines experience periodic surcharging that overflows through manhole lids into streets and backs up into residences and businesses. Development is being impeded in certain areas of the city because of these overcapacitated lines, and elsewhere, because of the city's financial inability to extend interceptor sewers.

I know that Mayor York apprised you of the cost estimate for having adequate public works systems in 1990. Those cost estimates as they relate to wastewater treatment facilities amount to in excess of \$21 million; again, \$14 million for a new plant and approximately \$6.5 million for interceptor sewer improvements.

Of this \$21 million, the city can reasonably expect to receive less than \$11 million in State and Federal grants-in-aid, if it receives any. Furthermore, to achieve the 20-year plan will require the city to invest approximately \$13 million more in interceptor sewer improvements. Hence, to be in good shape at the turn of the century in just wastewater treatment, at least \$34 million will have to be invested. I might add that present policy of the State EID is not too fond of interceptor sewer improvements, but only plant in the State, so with respect to \$6.5 million to meet the 1990, and the additional \$13 million, for a total of approximately \$20 million, the city will have to totally finance that amount of money, unless there is some change in policy.

Congressman SKEEN. Some \$20 million is the city's half?

Mr. WHITFORD. Yes, sir.

Congressman SKEEN. And that is out of the total \$21 million, approximately?

Mr. WHITFORD. Yes.

Hence, to be in good shape at the turn of the century just in wastewater treatment, Roswell will have to spend approximately \$34 million.

But it must be remembered that wastewater treatment is only one component of infrastructure, and infrastructure is only one competing interest in the demand for city revenues—revenues that I might add now, amount to only about \$25 million per year.

Certainly, assistance from higher levels of government will be essential to achieve the 1990 objective, and then the turn of the century one.

Roswell has a bad situation with its wastewater treatment facilities, but it is not alone. Many other communities throughout the State and Nation are experiencing similar and even worse prob-

lems. Nearby, Las Cruces finds itself in almost as bad a predicament.

DOMENICI BILL TO TAKE UP SLACK IN FUNDS

The Public Law 92-500 grant-in-aid program administered by the EPA is an excellent program. Apart from general revenue sharing, it is the only significant source of assistance to local units of government in developing wastewater treatment infrastructure. Unfortunately, it is appropriated at a level that can be now described as only a drop in the bucket. New Mexico's allotment this year is only \$13 million.

I believe that the loan program envisioned by Senator Domenici's S. 532 will go a long way toward addressing this inadequacy of Federal assistance for the development of wastewater treatment facilities. I urge you to take a close look at this legislation, as well as the funding levels of the Public Law 92-500 and general revenue-sharing programs. Attaining clean water is a national responsibility, not just that of the individual States and local communities.

Thank you very much.

Chairman DOMENICI. Thank you very much.

Statement of James B. Whitford, Jr.
Roswell City Manager
Before the U.S. Senate Budget Committee's
New Mexico Infrastructure Hearing
Roswell, New Mexico
March 31, 1983

Earlier this afternoon you heard from Mayor York about how periods of economic expansion and contraction over the past three decades have resulted in an acute, comprehensive infrastructure problem for Roswell. I will not reiterate his remarks beyond reminding you that the City is today faced with having to play "catch-up" and provide for growth at the same time. No component difficulties better illustrate this than those involving wastewater treatment.

As is the case with the preponderance of its infrastructure, the City's wastewater treatment facilities were mainly developed during the 1950's. The existing treatment plant, for the most part constructed in 1951 with some enhancement in the early 1960's and partial rehabilitation in the mid-1970's, is currently experiencing hydraulic overloads within the system and many of the unit processes have deteriorated both mechanically and structurally. The plant is deficient in terms of treatment capability required presently and for anticipated growth. The plant has also been continually out of compliance with its federal E.P.A. permit requirements since February, 1977. Such non-compliance in part involves the quality of effluent. So serious is this non-compliance, that the City was recently compelled to agree to a consent decree with the E.P.A. and U. S. Department

of Justice entailing a \$20,000.00 fine and, further, the New Mexico Environmental Improvement Division has filed adverse comments with the Federal Housing Administration obstructing approval of new subdivisions in Roswell. On a positive note, the E.I.D. has this year accorded highest priority to the construction of a new wastewater treatment plant here. Based on this, if the City can additionally satisfy technical requirements for funding, it should receive a federal PL 92-500 grant-in-aid with a formula contribution from the State for constructing a new plant. This assistance may amount to as much as 75% of most costs.

Besides the plant problem, most of the City's interceptor sewers are of inadequate capacity to carry present or future flows. Many of the sewer lines have low velocities, reverse grades and are structurally deteriorated. Some of these lines experience periodic surcharging that overflows through manhole lids into streets, and backs-up into residences and businesses. Development is being impeded in certain areas of the City because of these overcapacitated lines, and elsewhere because of the City's financial inability to extend interceptor sewers.

I know that Mayor York apprised you of the cost estimates for having adequate public works systems in 1990. Those cost estimates as they relate to wastewater treatment facilities amount to in excess of \$21 million: more than \$14 million for a new plant and approximately \$6.5 million for interceptor sewer improvements. Of this \$21 million amount, the City

can reasonably expect to receive less than \$11 million in State and federal grants-in-aid, if it receives any. Furthermore, to achieve the twenty-year plan will require the City to invest approximately \$13 million more in interceptor sewer improvements. Hence, to be in good shape at the turn of the century in just wastewater treatment, at least \$34 million will have to be invested. Considered alone, that does not seem so great an investment. But, it must be remembered that wastewater treatment is only one component of infrastructure, and infrastructure is only one competing interest in the demand for City revenues; revenues that I might add now amount to only about \$25 million per year. Certainly, assistance from higher levels of government will be essential to achieve the 1990 objective, and then the turn-of-the-century one.

Roswell has a bad situation with its wastewater treatment facilities. But it is not alone. Many other communities throughout this State and nation are experiencing similar, even worse, problems. Nearby, Las Cruces finds itself in almost as bad a predicament.

The PL 92-500 grant-in-aid program administered by the E.P.A. is an excellent program. Apart from General Revenue Sharing, it is the only significant source of assistance to local units of government in developing wastewater treatment infrastructure. Unfortunately, it is appropriated at a level that can be described as "only a drop in the bucket".

New Mexico's allotment this year approximates \$13 million.

I believe that the loan program envisioned by Senator Domenici's S.532 will go a long way toward addressing this inadequacy of federal assistance for the development of wastewater treatment facilities. I urge you to take a close look at this legislation, as well as the funding levels of the PL 92-500 and General Revenue Sharing programs. Attaining clean water is a national responsibility, not just that of the individual states and local communities.

Chairman DOMENICI. Congressman?

Congressman SKEEN. I want to go back—of course, I have waited all day for this. I think you have hit it exactly right. The water section of the thing I think is so extremely important to what happens to us in New Mexico, and the trends have been there a long time. The surprising thing to me—and I do not have the figures, but maybe one of you can supply them—in your dissertation on this thing, Phelps, you were talking about what it takes to produce a half-pound of beef, and so on. I think that is a shock. Of course, it is a renewable type of thing. We can recycle water, when it goes to producing food and fire equipment.

PER CAPITA USE OF WATER TWICE OTHER AREAS

Even beyond that, I read some statistics not long ago about the per capita use of water in municipalities. The surprising thing to me was that in Western and arid States, the per capita use of water in a household is twice what it would be in a household on the east side of the 38th rainfall belt. I do not know whether this includes watering lawns or irrigation—I am presuming that it does, because it takes so much water. But anyway, we have a tremendously high per capita use for human consumption, and I have listened to all of the arguments that Judge Braton had and some others, about health and safety to human beings and so on, and this municipal and industrial use as compared to agricultural use, I think that the stress on conservation of municipal and industrial users ought to be just as high and just as significant as it is among agricultural users, if we are going to exist together. Otherwise, slowly, you are going to remove agriculture as an entity of operation, because of the conflict in the water use.

Have I seen this thing wrong, or how do you feel about it?

Mr. ANDERSON. I think you are seeing it exactly right. I think the municipalities have a hammer on water conservation that does not exist in agriculture, and that is, they can control the cost of the commodity at the faucet, and you can force water conservation, provided you can maintain your office as an elected official. [Laughter.]

Congressman SKEEN. I think that is one of the most pointed statements made today.

Mr. ANDERSON. Well, you know, we saw a whole slate of city officers voted out of Roswell 6 years ago.

Congressman SKEEN. Over water issues.

Mr. ANDERSON. On water rate increases. But that does not exist in agriculture, and the real problem on water conservation as I see it is that agriculture is such a large consumer of the total amount of water utilized, and fortunately, agriculture is a private industry in this country, and if we include it within this legislation, it would have to allow this legislation to finance private water-conservation projects, essentially.

But I think you are seeing it exactly right, although in agriculture, I think the farmers are very receptive, eager, and anxious to implement water conservation practices, because it saves them money. All of these practices are not only water-efficient; they are labor-efficient—which is a major cost in agriculture, Congressman Skeen.

Congressman SKEEN. I understand that perfectly.

MOTTLED SET OF WATER LAWS IN STATE

Jeff, speaking of these water suits that we have had, I have a real fear that if we keep going in this direction, the thing that bothers me is—and I do not argue with any of the judges who have made their decisions; that is their purview, that is what they are there to do, and I think they have done an outstanding job, except that I think the precedent involved in this thing is in the wrong area. I have said it before, and I will say it again. We have a rather mottled set of water laws in the State of New Mexico as compared to some of our neighboring States. Arizona used to have the worst, for instance—and I am not trying to castigate them. But I think that many years ago, the State of New Mexico placed a priority in the area that they know—someone back there knew—that if we did not conserve the water as much as providing for the health and safety of human beings. So we developed a set of water laws that took that into account. And now we see the situation in the Ogallala formation, where it is slowly being mined out of the area, but to the east of us is a State that has not had the concerted effort toward promulgating water laws that had anything to do with conservancy because unfortunately, Texas has the 38th rainfall belt that runs right down the middle of it, and their population exists on each side of it. So we come back to the political ogre again that we have to face. And those folks east of the 38th rainfall belt do not care too much about what goes on on the west side of the State. So as a consequence of this, we are constantly in conflict, and every compact now is under siege, or every agreement that we have is under siege with this thing. And I just wonder—we are desperately trying at the national level to restore primacy to the States. Where does this all end? Do we just keep going to the courthouse until we lose it all?

ANOTHER ROLL OF THE DICE

Mr. FORNACIARI. Congressman Skeen, I cannot really say where it ends, but hopefully, we do not go to the courthouse before we lose it all. I think that we do have a fine system of water laws. I

think comparing our system to the other States that you mentioned, I think there are universes of differences. It is not just simply a matter of slight differences.

I do not know—there is a possibility that if the Rio Grande compact is not apportioned below Elephant Butte that we could attempt to negotiate a compact with Texas; I do not know. It is possible. We could sue for equitable apportionment in the U.S. Supreme Court, another lawsuit, another roll of the dice. I just do not know. I think that we need primacy of State water laws; there is no doubt. New Mexico has done a good job with the amount of water it has. It is perhaps the third most arid State, and it has spread and stretched that supply as far as possible.

My feeling is that we need Federal legislation giving us the ability to control, to say no for out-of-State use, or to say yes for out-of-State use, but primarily to control our water so we are not the captive of someone else.

MUNICIPAL INDUSTRIAL USERS CAUSED WATER PROBLEM

Congressman SKEEN. Well, I concur with your point, and one observation in this thing—and I do not like to ask you all of these open-ended questions and so forth, and I apologize for that, because it does not get us anywhere down the line. But it has been an observation and a very interesting one that of late, because of the element of equality, Eastern States now are becoming extremely interested in water legislation because it has seriously affected their municipal industrial users, and they are the ones who have created the problem, and now there is a water shortage of a sort because of low-grade quality of water. And we find now in the case of the Congressman from Ohio and myself, who are cosponsors of a bill that returns to primacy, that there is an interest in the Midwest, because they do not want us over there, tapping them; if it is all right for Texas to take our water to transport it interstate, then it is all right for us, by the same token, to move to the Midwest or the Great Lakes or someplace else. And this great question that the colonel talked about of transporting water over long distances is going to become more and more feasible. But I would just share that with you, that we are not all by ourselves any longer, just arid States against those that have the water. It is a tremendous problem nationwide. I do not know where it goes, but I just want you to know that you certainly have my interest, and I am delighted with the response of this panel this afternoon. You have made a great contribution to me. This is, I think, the foremost problem that we have.

Thank you, Mr. Chairman.

Chairman DOMENICI. Thank you very much.

I am going to be honest with you. I would like to spend some additional time talking about the issues, but I cannot, because I am scheduled to have left here 10 minutes ago.

NEED BROADER WATER COALITION IN CONGRESS

Let me suggest, though, that in terms of the construction of the application of national resources to water problems of all types, it is probably one of the most serious problems we have right now,

and I just share this with you as New Mexicans and westerners. If we are not able to put together two things—a much broader coalition in the national Congress to support water resources—we are just going to be flying kind of by the seat of our pants, and sort of which Congressman or Senator is in the position to keep these programs going, because the truth of the matter is that when you look at the Bureau of Reclamation as a resource and the Corps of Engineers as a resource, it has become quite obvious that they are not national in scope in terms of spreading out national money for water. Now, we have very good arguments as to why it should not be, but the truth of the matter is that the other States that are not getting that have water problems, too. They just do not happen to be the same as ours, and we are losing support dramatically, as evidenced by no new starts, or as you indicated, Colonel, the Bureau of Reclamation is in the same shape or worse; no new water policy in terms of cost sharing. The administration has now said, "We will start a new project, pull it off the list, if the local group will pay a cost-share that is not even in the law," and some are willing to do it. They are in such bad shape they will come up with cost sharing even though it is not in the law and be pulled to the top of the list and get a project started.

So it seems to me that sooner or later, the country is going to have to spend a lot more money in water, but we are probably going to have to have a more nationally scoped distribution of the money, or we are going to go down every year, rather than up.

WESTERNERS MUST COALESCE BEHIND BUREAU OF RECLAMATION

Secondly, the Bureau of Reclamation, which is peculiarly western, is totally stymied, and unless and until the Western States find a way to coalesce around support for the Bureau's projects, we are going to get nowhere. What has actually been happening is, either directly or indirectly, 1 State within the 17 that are supposed to be friends are involved in suing a friendly project in an adjoining State, and so it is becoming a "tit for tat." You have westerners fighting up in South Dakota about one of their projects on environmental grounds, and then you have some people from South Dakota saying, "Fine, if that is the case, we will join a group, and we will sue the Arizona project people on environmental issues." And we have a long list of what we ought to be doing, and we are getting nowhere.

So I am very hopeful that in the not-too-distant future, we can convince the 17 States that are part of the Bureau of Reclamation program that they ought to get their collective acts together aside and apart from the Secretary of the Interior and agree collectively to support each other's projects under a 10- or 15-year master plan so that we will not have the infighting that is existing regarding a program that serves the minority of the States and that is kind of zealously guarded, yet from the outside, it is attacked with envy, and we are not going to get anywhere.

In conclusion, might I say to the corps that we are pleased with what you are doing. Frankly, we think you are underused. You are the greatest civil engineering group, I think, that has ever existed, and we are finally out from under a lot of the lawsuits, but I think

we are very much underutilizing your capabilities. Specifically, however, the Albuquerque office is holding tough on personnel, isn't it? It is not being cut?

Colonel PYLANT. That is correct, Senator.

Chairman DOMENICI. And you are getting some additional work assigned to you for the military construction, which has been assigned to a different office; they are going to assign some of that to you—is that correct?

Colonel PYLANT. That is the plan, and we now have a 10-space increase of engineers for military program design support. There are other plans that are still evolving.

Chairman DOMENICI. And you are going to do the WIPP engineering, and for that, you are going to be paid, which will add personnel; is that correct?

Colonel PYLANT. Senator, we are performing the construction management function—that is, bidability, constructability, review of design, packaging, awarding, and managing construction, and we are well underway toward accomplishing that.

Chairman DOMENICI. My last question is, we are going to move whatever you have in Sacramento that applies to New Mexico over to your office pretty soon—you would not mind that, would you—you do not have to answer that.

Congressman SKEEN. That is a leading question. [Laughter.]

Chairman DOMENICI. We will let the general answer, but he would answer "No." But that is what we are going to try to do one of these days.

Congressman SKEEN. Do you mean cut that western section that is into Sacramento—

Chairman DOMENICI. Yes, so all of New Mexico is under one.

Congressman SKEEN. Yes, we have talked about this before—excuse me for interrupting. We have, what, three corps districts, represented in New Mexico?

Colonel PYLANT. Sacramento, Albuquerque, Los Angeles, and we took over on the eastern portion of New Mexico the portion that the Fort Worth district used to have.

Congressman SKEEN. Well, fine. I am glad to hear that, because it was a mess.

Chairman DOMENICI. I want to thank you all very much. It was very instructive.

Could I ask you, Jeff, as a lawyer, do you read the El Paso and Sporhase case to say that the Congress said a sovereign State can absolutely decide yes or no on whether water could be used for coal slurry, no criteria, clearly an arbitrary decision, "We give you that arbitrary authority"? Do you read that as valid?

Mr. FORNACIARI. Yes, I do. I think Congress has absolute power over interstate commerce; it can prohibit it as well as authorize it.

Chairman DOMENICI. I would assume, then, that you would think that we could therefore say we have the same kind of authority even if it is arbitrary, without any conservation plans or welfare, to say you cannot take it for municipal uses outside the boundary of the State unless the State lets you; would you agree with that?

Mr. FORNACIARI. Clearly and explicitly stated, I do agree, yes, I do.

Chairman DOMENICI. So that is a question of whether we can draft something that we can get through?

Mr. FORNACIARI. That is correct. That was my next statement.

Chairman DOMENICI. All right. I understand.

Thank you very much.

We stand in recess.

[Whereupon, at 5:12 p.m., the committee was adjourned.]

APPENDIX

Navajo Area
Eastern Navajo Agency
P. O. Box 328
Crownpoint, New Mexico 87313

March 28, 1983

Senate Budget Committee
New Mexico Legislature Hearing
Farmington, New Mexico

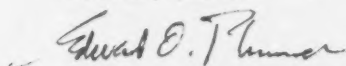
Honorable Senator Pete Domenici:

In the Eastern Navajo Agency (Checkerboard Area) of Navajo County there is a tremendous need to assure the land base for the Navajo people so that the Navajo Nation and the Navajo people can actively participate in the planning and fulfillment of long term economic growth. The Congress of the United States needs to authorize the transfer of title to 820,000 acres of public lands to the Navajo Tribe in trust to solidify the land base. These public lands are presently being used and controlled by the Navajo people.

This office is working closely with the Navajo leadership and Navajo Chapters on expanding the capabilities of the local Navajo Chapters and communities to undertake a bigger role in the functioning of the Tribal Government. The areas of concentration are community planning and development, zoning, development of local laws, establishment of townsites, withdrawal of Tribal lands for community, economic and social developments, acquisition of land, and the like. True, it is a learning process for the Navajo People where one encounters resistance on many fronts, but the Navajo people must assume the roles of going forth with the planning and the responsibilities to enhance the growth of its people. Before any local development can take place the foundation must be laid by the Navajo people themselves. Provisions must be made within the structure of S.532 to assure continued sovereign immunity of the Indian Tribes and nondomination of the States over Indian Tribe. Also provisions must be made in S.532 to have the federal government and state governments provide assistance to Indian Tribes to participate in the intent and purposes of the Bill.

I want to thank you for this opportunity and also for your invaluable assistance on New Mexico State Highway Numners 371 and 44 and U.S. Highway 666.

Sincerely yours,

A handwritten signature in cursive script, reading "Edward O. Plummer".

Edward O. Plummer
Superintendent, Eastern
Navajo Agency

CITY OF FARMINGTON
STATE OF NEW MEXICO

RESOLUTION NO. 82-317

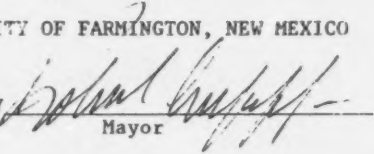
WHEREAS, the City of Farmington, New Mexico, is about to enter into a repayment contract with the United States of America for the construction, operation, maintenance, repayment of the Animas - La Plata Project under the Colorado River Storage Project Act of September 30, 1968 (82 Stat. 996) to be built by the Bureau of Reclamation of the Department of the Interior for the storage, diversion, salvage and distribution of the waters of the Animas and La Plata Rivers for, among other things, municipal and industrial use, and

WHEREAS, the City Council of the City of Farmington, New Mexico, has approved, as to form, and by these presents does approve a proposed repayment contract of which has been presented to the City subject to the approval of and with such revisions as may be required by the City Attorney.

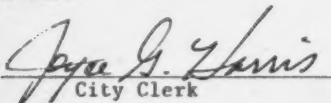
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Farmington, New Mexico, that the proposed repayment contract between the United States of America and the City of Farmington, New Mexico, heretofore presented to the City be approved as to form, subject to the approval and with such revisions as may be required by the City Attorney, and the Mayor of the City of Farmington, New Mexico, and the City Clerk attesting thereto are authorized to execute the above Resolution.

PASSED AND APPROVED this 23rd day of February, 1982.

CITY OF FARMINGTON, NEW MEXICO

By 
Mayor

ATTEST:


City Clerk

STATE BUDGET COMMITTEE
NEW MEXICO INFRASTRUCTURE HEARING
WATER INFRASTRUCTURE PANEL
MARCH 31, 1983

Mr. CHAIRMAN:

I THANK YOU FOR THE OPPORTUNITY TO TESTIFY THIS AFTERNOON AND OFFER MY THOUGHTS ON THE PUBLIC INVESTMENT INCENTIVE ACT OF 1983. I HOPE MY TESTIMONY THIS AFTERNOON WILL BE AS FLUID AND MEANINGFUL AS THE RESOURCE ITSELF - WATER.

NEW MEXICANS LEARN AT AN EARLY AGE THE IMPORTANCE OF OUR WATER RESOURCES. THIS EDUCATION TAKES MANY FORMS FROM THE DISCIPLINE FROM ONE'S PARENTS AFTER THE GARDEN HOSE HAS BEEN LEFT RUNNING OVERNIGHT; TO THE URGENCY OF IRRIGATION TO CATCH UP WITH THE THIRST OF COTTON, ALFALFA AND OTHER CROPS. NEW MEXICO IS FORTUNATE TO HAVE THE WATER RESOURCES SHE HAS, AS - IN MY OPINION - WE COULD BE IN FAR WORSE SHAPE ON WATER.

DURING THE LIMITED TIME AVAILABLE THIS AFTERNOON I HOPE TO PRESENT THIS COMMITTEE WITH THREE IDEAS:

FIRST, THAT INDIVIDUAL STATES MUST CONTINUE THE RESPONSIBILITY OF CONTROLLING WATER RESOURCES.

SECOND, THAT WATER CONSERVATION - PARTICULARLY IN AGRICULTURE - BE FURTHER DEVELOPED AS A LOCAL, STATE AND NATIONAL PRIORITY.

THIRD, AS THE INCREASING DEMANDS FOR WATER RESOURCES ACCELERATE, THE NECESSARY INFRASTRUCTURE FOR THIS TRANSITION MUST BE PUT IN PLACE TODAY TO MEET THE INCREASING DEMANDS OF TOMORROW.

THE FIRST IDEA IS FAMILIAR TO NEW MEXICANS, ESPECIALLY THOSE OF THE MESILLA VALLEY. EARLIER THIS WEEK A FRONT PAGE ARTICLE IN THE EL PASO TIMES DESCRIBED THE PRESENT EFFORTS OF THE UNITED STATES CONGRESS TO RESTORE AND STRENGTHEN EACH INDIVIDUAL STATES' CONTROL OVER WATER RESOURCES. I BELIEVE STATE RESPONSIBILITY OVER WATER RESOURCES IS A CRITICALLY NECESSARY INGREDIENT TO ACCOMPLISH THE SECOND AND THIRD IDEAS I WISH TO ADDRESS.

WATER CONSERVATION MUST BE FURTHER DEVELOPED - PARTICULARLY IN AGRICULTURE. THE LARGE AMOUNT OF WATER USED IN AGRICULTURE IS NO SECRET. CONSIDER THE FOLLOWING EXAMPLES:

THE WATER BILL FOR A TYPICAL BREAKFAST OF EGGS, BACON, BUTTERED TOAST AND MILK AMOUNTS TO ABOUT 510 GALLONS OF WATER. PRODUCTION REQUIREMENTS, NOT INCLUDING WATER USED IN HARVESTING, PROCESSING, TRANSPORTATION AND HOME PREPARATION, FOR OTHER ITEMS IN THE DAILY DIET INCLUDE 2600 GALLONS FOR A HALF-POUND OF STEAK; 410 GALLONS FOR FOUR OUNCES OF PORK OR EIGHT OUNCES OF CHICKEN; 61 GALLONS FOR AN EAR OF CORN; 15 GALLONS FOR TWO OUNCES OF WHEAT BREAD; 90 GALLONS FOR FOUR OUNCES OF CHERRIES; AND 100 GALLONS FOR 1 POUND OF WATERMELON.

CLEARLY THE MOST SIGNIFICANT GAINS IN WATER CONSERVATION CAN BE REALIZED IN AGRICULTURE. AT PRESENT, THE INDUCEMENT FROM THE GOVERNMENTAL SECTOR IS FRAGMENTED AND MODEST AT BEST. THE AGRICULTURAL SECTOR OF NEW MEXICO'S ECONOMY LACKS THE CAPITAL RESOURCES TODAY TO MAKE THE DESIRED CHANGES TO MORE WATER CONSERVATIVE FARMING PRACTICES.

I WOULD URGE THE LOCAL, STATE AND FEDERAL GOVERNMENTS TO CONTINUE TO EXPAND THE INCENTIVE PROGRAMS TO EXPEDITE WATER CONSERVATION. THE CAPITAL REQUIRED FOR LASER LEVELING, SPRINKLER, TRICKLE AND DRIP IRRIGATION SYSTEMS AS WELL AS OTHER WATER CONSERVATION FARMING PRACTICES, SIMPLY DOES NOT EXIST TODAY IN AMERICAN AGRICULTURE. I WOULD SUGGEST THAT THE PUBLIC INVESTMENT INCENTIVE ACT OF 1983 INCLUDE ALL WATER CONSERVATION SYSTEMS AS ELIGIBLE PUBLIC INFRASTRUCTURE INVESTMENTS. IN BOTH THE LONG RUN AND SHORT RUN, WATER CONSERVATION IS A PUBLIC INFRASTRUCTURE ISSUE. UNFORTUNATELY, TODAY IN THE AGRICULTURAL SECTOR OF OUR ECONOMY THERE SIMPLY IS NOT THE CAPITAL REQUIRED TO MAKE THESE INVESTMENTS. THEREFORE, I BELIEVE WATER CONSERVATION SYSTEMS IN EVERY SECTOR OF THE ECONOMY SHOULD COME UNDER THE PURVIEW OF THIS LEGISLATION.

EVERY WATER CONSERVATION EFFORT TODAY WILL PROVIDE PUBLIC BENEFITS TOMORROW WHICH CANNOT BE FULLY MEASURED AT PRESENT.

TO THE THIRD POINT, LET ME PREFACE MY REMARKS BY SAYING THAT EACH AND EVERY COMMUNITY IN NEW MEXICO HAS VERY REAL AND CURRENT WATER ISSUES. EACH LOCAL NEWSPAPER INCREASINGLY INCLUDES ARTICLES CONCERNING WATER. AT PRESENT, CARLSBAD AND ROSWELL ARE IN DISPUTE OVER A WATER ISSUE OF GREAT IMPORTANCE TO BOTH COMMUNITIES. RUIDOSO IS ACTIVELY TRYING TO DEAL WITH UNIQUE MUNICIPAL WATER DEMANDS WHICH PEAK IN THE SUMMER TIME WITH A TREMENDOUS NUMBER OF OUT-OF-TOWN VISITORS. AND, LEA, ROOSEVELT AND CURRY COUNTIES ARE WORKING TO PRESERVE THEIR ESSENTIAL FARMING COMMUNITY EFFECTED BY A DECLINING WATER TABLE. AND, OF COURSE, NEW MEXICO AND EL PASO ARE IN LITIGATION OF A WATER DISPUTE OF GREAT SIGNIFICANCE TO BOTH PARTIES. MY POINT IN MENTIONING THESE FEW EXAMPLES IS TO STRESS THE FACT THAT FEW NEW MEXICO COMMUNITIES SHARE EXACTLY IDENTICAL WATER ISSUES TODAY.

AS AN AGRICULTURAL USER OF WATER, I DO NOT LOOK FORWARD TO THE TURMOIL AHEAD CONCERNING THE TRANSFER OF WATER OUT OF AGRICULTURE. FOR EXAMPLE, THE THOUGHT OF A NEW MEXICO MUNICIPALITY EXERCISING EMINENT DOMAIN OVER A FARMER'S WATER RIGHTS IS CERTAINLY NOT A PLEASANT ONE. UNDER PRESENT NEW MEXICO WATER LAW, A COMPETITIVE MARKET PLACE DOES EXIST FOR THE TRANSFER OF WATER TO AND FROM AGRICULTURE TO OTHER USES. INCIDENTALLY, THE TRANSFER OF WATER IS NOT ALWAYS A ONE WAY STREET OUT OF AGRICULTURE. TODAY, IN SIERRA COUNTY AN IMPORTANT NEW AGRICULTURAL VENTURE IS UNDERWAY USING ALBUQUERQUE WATER AND TO CREATE PRIVATE INVESTMENT AND JOBS IN A LARGE VITICULTURE PROJECT. AGAIN, THE FREE MARKET PLACE UNDER NEW MEXICO WATER LAW ALLOWS WATER TO FOLLOW A COURSE TO THE USER WILLING TO PAY THE HIGHEST PRICE.

AS WATER IS TRANSFERRED FROM AGRICULTURE TO MUNICIPAL AND INDUSTRIAL USES I BELIEVE THE MUNICIPALITIES MUST ALSO BE EFFICIENT IN USING THE RESOURCE. INEFFICIENT MUNICIPAL AND INDUSTRIAL WATER SYSTEMS WILL REQUIRE A GREATER NUMBER OF FARMS TO BE DRIED UP AND, THEREFORE, THE UNNECESSARY LOSS OF JOBS IN AGRICULTURE. I ENDORSE THE CONCEPT IN THE PUBLIC INVESTMENT INCENTIVE ACT AS IT OFFERS THE FINANCING NECESSARY FOR MUNICIPALITIES TO PROVIDE EFFICIENT AND WATER CONSERVATIVE SYSTEMS. I BELIEVE AT PRESENT NO NEW MEXICO MUNICIPALITY HAS THE FINANCIAL RESOURCES TO ACCOMPLISH NECESSARY WATER SYSTEM MAINTENANCE AND IMPROVEMENTS TO REALIZE MEANINGFUL WATER CONSERVATION. WATER CONSERVATION CANNOT BE SIMPLY A PRACTICE FOR AGRICULTURAL USERS. ALL WATER USERS SHARE THE BURDEN OF MANAGING WATER RESOURCES IN A RESPONSIBLE MANNER AND THE PUBLIC INVESTMENT INCENTIVE ACT CAN PROVIDE THE CAPITAL RESOURCES REQUIRED FOR WATER CONSERVATION.

UNFORTUNATELY, TIME CONSTRAINTS DO NOT PERMIT ME TO DISCUSS WATER QUALITY IDEAS WHICH GO HAND IN GLOVE WITH THE IDEAS I HAVE PRESENTED THIS AFTERNOON ON WATER QUANTITY.

THANK YOU.

PHELPS ANDERSON
PRESIDENT
DIAMOND A CATTLE COMPANY



The El Paso Times

New Mexico
Edition

Serving the fabulous Southwest for 107 years

103rd Year, No. 87

El Paso, Texas, Monday, March 28, 1983

Price 25 Cents

Bills delegate water control back to states

The Associated Press

WASHINGTON — Western lawmakers have begun putting language into a coal slurry pipeline bill that would delegate to states complete control over the use of water by slurry pipelines.

The coal-slurry language is an initial move toward restoring state control over water usage.

Next month, a separate "generic bill" will be completed by a group of senators. The bill would delegate to the states the right to regulate the export of water from their state.

Several court cases, including New Mexico's fight with El Paso, could be affected by the legislation.

El Paso's Public Service Board filed a

lawsuit in September 1980 to get New Mexico's export water laws declared unconstitutional. El Paso maintains tapping New Mexico's underground water supply is the most economical way to get water it needs.

U.S. District Judge Howard Brillon of Albuquerque ruled in January in favor of El Paso. New Mexico has appealed. Both sides expect the suit to be decided by the U.S. Supreme Court.

Sen. Pete Domenici, R-N.M., is playing a lead role in framing the new measure, but says he has reservations about the bill to give slurry pipelines the right to cross railroads.

Railroad companies are fighting the slurry pipeline measure. In the face of transport

competition, they are refusing to permit pipelines to cross their lands, officials say.

State's rights to regulate the export of their water was lost when the U.S. Supreme Court, in *Sporhese vs. Nebraska*, ruled water an article of commerce. The court invited Congress to delegate its control to the states.

Lawmakers originally had thought to use the coal-slurry pipeline to solve the water problems of Western states caused by the *Sporhese* decision.

But the idea was discarded because some senators, including Domenici, said they believed it would hurt their cause to tie the court decision and the legislation together.

File: WPA - Speeches Bureau



U.S. DEPARTMENT OF AGRICULTURE
 AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

OTERO-LINCOLN COUNTY



NEWSLETTER

July 7, 1981

AGRICULTURAL CONSERVATION PROGRAM

The Agricultural Conservation Program (ACP) is a cost-share program designed to conserve our water, prevent erosion, and reduce pollution of air and water.

The following article gives some information as to why our water needs to be conserved.

The Water Bill For Food
 *Taken from the March 13, 1981
 Water Newsletter*

The water bill for a typical breakfast of eggs, bacon, buttered toast and milk amounts to about 510 gallons of water.

Production requirements, not including water used in harvesting, processing, transportation and home preparation, for other items in the daily diet include 2600 gallons for a half-pound steak; 16 gallons for three ounces of green beans; 61 gallons for an ear of corn; 26 gallons for eight ounces of grapefruit; 90 gallons for four ounces of cherries; 100 gallons for 1 pound of watermelon; 15 gallons for two ounces of wheat bread; 56 gallons for two ounces of rice; 40 gallons for 2 ounces of dried beans; 92 gallons for one half ounce of margarine; 65 gallons for eight ounces of milk; and 410 gallons for four ounces of pork or eight ounces of chicken.

The total gallons is 4061, which illustrates the need to conserve our water.

FORESTRY INCENTIVE PROGRAM

The Forestry Incentive Program is a cost-share program designed to increase the nation's supply of timber products.

At the present time the State Reserve Funds have been exhausted.

Producers who have been approved for FIP practices are encouraged to complete the project as soon as possible.

EMERGENCY FEED PROGRAM

Producers who were approved for assistance under the Emergency Feed Program are reminded that they are responsible for reporting any change in their livestock numbers and any change in available feed.

Due to recent rains that have occurred in the county there should be a change in available feed.

Changes in the program have delayed our office from making payments to producers who have submitted their sales receipts for feed purchased.

Any feed which remains on hand when the program is terminated will not be eligible for assistance. All feed receipts must be turned in within 30 days after the end of the program.

Allen H. Trammell

PEOPLE FOR PEACE

March 31, 1983

Dear Senator Domenici,

We represent the organization called People for Peace of Roswell, who want to respond to the effect of federal policy upon the state and local levels.

There is a dramatic shift in budget priorities in the Five-Year Budget Plan. The military build-up together with the tax-cuts leave less and less room in the federal budget for social programs beyond social security.

It is evident that our resources are limited in relation to our needs and wants. Therefore, there are clear trade-offs. Insofar as we spend the projected \$94.1 billion on weapons and equipment procurement for the military in FY 1984, we divert natural, human, and capital resources from transportation, housing, health care and food for the American People. As you know, Senator, the "procurement" part of the budget, which goes to buy weapons systems was \$35.3 billion (in budget authority) in 1980, and will jump to a proposed \$170 billion by 1988.

At a time when the Census Bureau, by its very conservative standard, reports that 31 million American people live in absolute poverty- that is, lacking the minimum necessary for subsistence - it is clear that the trade-off is between the military and very basic human needs. There is a direct correlation between what is spent on defense and what is not available to meet human needs. Seymour Melman of Columbia University has written extensively and in detail of the trade-offs inherent in the Pentagon's budget. For example (The New Times, July 26, 1981):

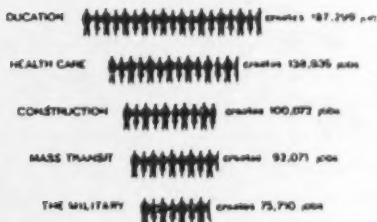
\$11 billion-cruise missile programs = cost of bringing the annual rate of investment in public works to 1965 levels;
\$444 million-88% of cost overrun to 1981 of the Navy's Tomahawk cruise missile
= Reagan's proposed 1981 and 1982 FY cuts in the federal solar energy budget.

It is clear that year after year over 1 million jobs are forgone in the U.S. economy by military spending, in comparison with what would have been possible if the same amounts were available to consumers, to state or local governments, or to other federal government programs.

"If the goal is to provide jobs and employment opportunities, then almost any category of non-military employment will produce more work for one billion dollars than does defense production."

—U.S. Dept. of Labor

\$1 billion spent on



We need more job opportunities for the almost 10% unemployed of New Mexico, and now, most recently - this week - for the Roswell newly unemployed of TMC.

Senator, we commend you for your opposition to the 10% real growth in military spending. However, the 6%-7% increase which the Senate Committee proposes still grants the Administration 93% of what they requested.

We urgently enjoin you to reduce defense spending to less than 3%. Such a reduction can only benefit the economy and the American People.

Sobering choices are before us as a nation. It is critical that we realize the real and long-term impact of military expenditures in undermining the ability of our economy to provide the standard of living we desire as a people. The choices are being made now by you, Senator, in our name. We will live with the results for many years to come.

Sincerely,

The People for Peace

Julie Slouik
Roberta Richmond
Myra Conrad
Tom Conrad
Mildred Davis
Florence Millburn
Edythe Milligan
Evelyn Anderson

STATEMENT OF CHARLES E. HUNTER
 VICE PRESIDENT AND GENERAL MANAGER
 SUNBELT MINING COMPANY, INC.
 MARCH 11, 1983

*Presented to
 New Mexico
 House and Natural
 Resources
 Comm. Hec*

MR. CHAIRMAN

MEMBERS OF THE COMMITTEE

MY NAME IS CHARLES E. HUNTER. I AM VICE PRESIDENT AND GENERAL MANAGER OF SUNBELT MINING COMPANY, INC. MY BUSINESS MAILING ADDRESS IS P.O. BOX 2106, ALBUQUERQUE, NEW MEXICO, 87103.

SUNBELT MINING COMPANY, INC. HOLDS OR CONTROLS STATE AND FEDERAL COAL RESOURCES IN THE BISTI-BLACK LAKE AREA OF SAN JUAN COUNTY CONTAINING SOME 200 MILLION TONS OF SURFACE MINE RECOVERABLE COAL. THESE RESERVES ARE PLEDGED TO A JOINT VENTURE WITH ARCH MINERAL CORP. THIS COAL, WHEN COMBINED WITH THE RESERVES CONTROLLED BY ARCH, MAKES UP A BLOCK OF SURFACE MINABLE COAL IN EXCESS OF 500 MILLION TONS. WE BELIEVE THIS COAL CAN BE PRODUCED AND MARKETING AT PRICES COMPETITIVE WITH ANY COAL RESERVES WITHIN THE STATE OF NEW MEXICO. OUR PROBLEM IS THE LACK OF A DEPENDABLE HIGH CAPACITY TRANSPORTATION SYSTEM TO GET THIS COAL TO THE MARKETPLACE.

Exhibit #1

DURING TESTIMONY PRESENTED AT THE MARCH 1 HEARING BEFORE JOINT SENATE COMMITTEES, THREE UTILITY EXECUTIVES RATHER SPECIFICALLY IDENTIFIED MARKET OPPORTUNITIES FOR SAN JUAN BASIN COAL WITH THEIR RESPECTIVE UTILITIES BEGINNING IN THE LATE 1980'S. THESE PURCHASERS WERE: SALT RIVER PROJECT AT THE CORONADO GENERATING STATION, ARIZONA PUBLIC SERVICE COMPANY FOR ITS CHOLLA #5 UNIT AND SOUTHWESTERN PUBLIC SERVICE COMPANY FOR ITS LUBBOCK COUNTY, TEXAS, GENERATING STATION. THESE THREE MARKET OPPORTUNITIES ALONE COULD UTILIZE MORE THAN 5 MILLION TONS OF SAN JUAN BASIN COAL PER YEAR BY 1991. A STUDY COMPLETED BY THE CONSULTING FIRM OF TEMPLE, BARKER, AND SLOAN IN DECEMBER, 1982, FOR THE NEW MEXICO ENERGY RESEARCH AND DEVELOPMENT INSTITUTE, IDENTIFIED 35 INDUSTRIAL FACILITIES THAT COULD BURN NEW MEXICO COAL. THE SAME REPORT IDENTIFIED 23 EXISTING OR PROPOSED POWER PLANTS THAT COULD BURN NEW MEXICO COAL. WITH THE EXCEPTION OF THE SAN JUAN GENERATING STATION AND FOUR CORNERS POWER PLANT, WHICH ARE MINE-MOUTH FACILITIES NOW BURNING SAN JUAN BASIN COAL, FEW, IF ANY, OF THESE IDENTIFIED POTENTIAL CUSTOMERS WILL EVER BURN SAN JUAN BASIN COAL WITHOUT AN ADEQUATE TRANSPORTATION SYSTEM.

WE ARE ALL AWARE OF THE THEORETICAL ECONOMIC BENEFITS FROM COAL DEVELOPMENT. LET ME BELABOR THE POINT BY CITING AN EXAMPLE THAT WAS OFFERED IN THE TEMPLE, BARKER, AND SLOAN REPORT. IN 1990 THE TBS STUDY FORECASTED, CONSERVATIVELY, A POTENTIAL FOR 17 MILLION TONS OF COAL TO BE EXPORTED FROM THE STATE. ASSUMING THAT ALL MINING OCCURS ON FEDERAL LANDS, AND THAT THE STATE THEREFORE RECEIVES ONLY 1/2 OF THE 12.5% COAL ROYALTIES, THE SEVERANCE TAXES REMAIN AT TODAY'S RATES, AND THAT COAL SALES FOR \$25 PER TON IN CONSTANT DOLLARS, THE FISCAL IMPACTS AT THE STATE LEVEL CONSIDERING ROYALTY AND SEVERANCE TAXES ONLY, WILL BE

APPROXIMATELY \$41 MILLION PER YEAR. THIS SAYS NOTHING ABOUT STATE CONSERVATION OR RESOURCE EXCISE TAXES, ADVALOREM TAXES OR GROSS RECEIPTS TAX.

EMPLOYMENT OPPORTUNITY - THIS TRANSLATES TO THE SIMPLE WORD "JOBS" - WILL BE SIGNIFICANT IF THE ASSUMED 17 MILLION TONS OF COAL IS PRODUCED AND SOLD. AT TODAY'S TYPICAL PRODUCTIVITY LEVEL OF 65 TONS PER MAN SHIFT FOR SURFACE COAL MINES, APPROXIMATELY 1,050 JOBS WOULD BE CREATED IN PRODUCING THE 17 MILLION TONS OF COAL. PAYROLL FOR THIS WORKFORCE WOULD LIKELY APPROACH \$26 MILLION ANNUALLY. SOMEWHERE BETWEEN 1,000 AND 2,600 SUPPORT JOBS WOULD LIKELY BE GENERATED FROM THIS LEVEL OF DIRECT EMPLOYMENT.

THE TBS STUDY AND A SIMILAR STUDY CONDUCTED BY DATA RESOURCES, INC., ALSO FOR THE NEW MEXICO ENERGY RESEARCH AND DEVELOPMENT INSTITUTE, BOTH CONFIRM THAT A MARKET EXISTS FOR SUBSTANTIAL QUANTITIES OF SAN JUAN BASIN COAL IN THE 1990'S. THUS, IT WOULD APPEAR THAT THERE IS LITTLE NEED TO ACT NOW ON MATTERS SUCH AS TRANSPORTATION SYSTEMS. IN FACT, JUST THE OPPOSITE IS TRUE. AS HIGHLIGHTED BY THE TBS STUDY AND REINFORCED BY TESTIMONY FROM UTILITY WITNESSES, ELECTRIC UTILITIES PLANNING TO INSTALL NEW GENERATING CAPACITY IN THE 90'S, ARE CURRENTLY LOOKING AT THE MARKETPLACE FOR FUEL SUPPLIES. SOUTHWESTERN PUBLIC SERVICE COMPANY PROVIDES A PERFECT EXAMPLE. THEY ARE CURRENTLY PREPARING TO NEGOTIATE FOR A FIRM FUEL SOURCE FOR THEIR LUBBOCK COUNTY, TEXAS STATION SEVEN YEARS PRIOR TO THE FIRST SHIPMENT OF COAL. THIS IS A TYPICAL TIME FRAME FOR THE UTILITY INDUSTRY.

Mr. JOHN DAVIS, SENIOR VICE PRESIDENT OF THE SANTA FE RAILWAY, IN A STATEMENT BEFORE THE INTERIM LEGISLATIVE RESOURCES TRANSPORTATION COMMITTEE IN SEPTEMBER, 1982, REFERRED TO OUR PRESENT SITUATION AS A "WINDOW OF OPPORTUNITY." Mr. DAVIS STATED THAT SURFACE COALS IN THE STATE NEED TO BE SOLD IN THE NEXT THREE OR FOUR YEARS, OR THERE MAY NOT BE MARKETS FOR THEM AT ALL. WHAT Mr. DAVIS WAS ALLUDING TO WAS THAT COAL SUPPLIES TO THE UTILITY MARKETS DEVELOPING IN THE 1990'S WILL BE CONTRACTED FOR IN THE VERY NEAR FUTURE. ONCE FILLED, THESE ANTICIPATED MARKETS FOR SAN JUAN BASIN COALS WILL BE GREATLY DIMINISHED UNTIL THE NEXT CYCLE OF UTILITY CONSTRUCTION OCCURS.

SENATE BILLS 89 AND 90 CREATE AN OPPORTUNITY FOR THE STATE TO POSITIVELY AFFECT DEVELOPMENT OF THE SAN JUAN BASIN COAL RESOURCES. THE BILLS DO NOT APPROPRIATE MONIES, NOR DO THEY COMMIT THE STATE TO FUND OR INTERCEDE IN ANY PRIVATE ENTERPRISE PROJECT. THE PRIMARY BENEFIT OF THE BILLS IS THEIR CREATION OF THE ABILITY TO RESPOND, IF NECESSARY, IN ORDER TO MAXIMIZE THE POSITIVE ECONOMIC BENEFITS TO THE STATE OF POTENTIAL ENERGY DEVELOPMENT. THESE BILLS PLACE THE STATE IN THE POSITION OF BEING A CATALYST TO SPUR DEVELOPMENT OF ENERGY TRANSPORTATION NETWORKS IF THE PRIVATE SECTOR FAILS TO ACT IN A TIMELY MANNER.

THANK YOU FOR YOUR ATTENTION.

*Mr. Charles Hunter. Before the New Mexico
Energy Resources Transportation Committee:*

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.

SUNBELT MINING COMPANY, INC., A WHOLLY OWNED SUBSIDIARY OF THE PUBLIC SERVICE COMPANY OF NEW MEXICO, IS ACTIVELY ENGAGED IN PLANNING FOR, AND CARRYING OUT DEVELOPMENT OF COAL RESOURCES WITHIN THE STATE.

AT PRESENT, WE OPERATE THE DE-NA-ZIN MINE IN THE SAN JUAN BASIN, PRODUCING 225,000 TONS/YEAR FOR SALE AND SHIPMENT TO THE SAN JUAN COAL COMPANY FOR PROCESSING AND RESALE TO SAN JUAN GENERATING STATION. OUR COAL IS TRUCKED 57 MILES OVER N.M. 371 AND U.S. 550. N.M. 371 IS A STATE "ENERGY-RELATED" HIGHWAY. PAST PLANNING AND FUNDING EFFORTS BY THE STATE HIGHWAY DEPARTMENT AND THE NEW MEXICO LEGISLATURE HAVE RECOGNIZED THE IMPORTANCE OF THIS HIGHWAY TO INDUSTRY'S EFFORTS TO DEVELOP THE COAL RESOURCES AND INDUSTRIAL PROJECTS WITHIN THE BASIN.

PAVING OF N.M. 371 HAS BEEN OF TREMENDOUS BENEFIT TO OUR COMPANY. AS AN EXAMPLE, ACCESS TO AND FROM THE SITE OF DE-NA-ZIN MINE IS MUCH IMPROVED OVER THE PREVIOUS DIRT AND GRAVEL CONDITIONS. IN ADDITION, OUR COAL HAUL TRUCKS, MAKING THE 57 MILE ONE-WAY TRIP TO SAN JUAN COAL COMPANY ARE

Exhibit #2

COAL-EXTRACTION INDUSTRY, IN THAT THE ABILITY TO MOVE COAL AND CREATE OVERALL FAVORABLE ECONOMICS ARE IMPROVED TREMENDOUSLY BY THE EXISTENCE OF THESE FACILITIES. IT IS SAFE TO SAY THAT, HAD AN IMPROVED ROADWAY SYSTEM THROUGH THIS AREA NOT BEEN AVAILABLE, OUR ABILITY TO ECONOMICALLY MOVE COAL MAY HAVE BEEN SERIOUSLY CONSTRAINED. AS IT IS, SUNBELT IS FORTUNATE TO BE ABLE TO OPERATE PROFITABLY, AND TO PROVIDE JOBS, TAXES AND REVENUES TO THE PEOPLE OF SAN JUAN COUNTY AND THE STATE OF NEW MEXICO, PARTIALLY AS A RESULT OF THE STATE'S PAST EFFORTS TO DEVELOP NECESSARY TRANSPORTATION FACILITIES.

SUNBELT, HOWEVER, WILL BE CONSTRAINED IN OUR FUTURE ABILITY TO DEVELOP BUSINESS OPPORTUNITIES WITHOUT FURTHER DEVELOPMENT OF THE ENERGY TRANSPORTATION SECTOR. SUNBELT CURRENTLY CONTROLS SIZEABLE FEDERAL AND STATE COAL RESOURCES IN THE BISTI AREA THAT CONTAIN SOME 500 MILLION TONS OF SURFACE-MINABLE COAL. SUNBELT HOPES TO DEVELOP THIS COAL TO PROVIDE THE FUEL REQUIREMENTS OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S PLANNED NEW MEXICO GENERATING STATION. SUNBELT, HOWEVER, IS BY NO MEANS ASSURED OF THE FUEL SUPPLY CONTRACT. COMPETITION AMONG LEASEHOLDERS IN THE AREA IS EXPECTED TO BE INTENSE AND HENCE, THE ULTIMATE DEVELOPMENT OF OUR POTENTIAL BISTI PRODUCTION IS VERY UNCERTAIN. LACKING NMGS OR OTHER LARGE MINE-MOUTH, COAL-CONSUMING INDUSTRIAL FACILITIES, SAN JUAN BASIN COALS WILL NOT BE

PRODUCED IN QUANTITIES SIGNIFICANTLY ABOVE CURRENT RATES WITHOUT A RAIL TRANSPORTATION SYSTEM.

THE ADVERSE FISCAL IMPACTS UPON THE STATE FROM LEAVING THESE RESOURCES IN THE GROUND COULD BE STAGGERING. DEPARTMENT OF ENERGY MEDIUM LEVEL COAL PRODUCTION GOALS PREDICT SAN JUAN BASIN COAL PRODUCTION WILL BE APPROXIMATELY 35 MMTPY IN 1985, 58 MMTPY IN 1990 AND 60 MMTPY IN 1995. CURRENTLY, COAL PRODUCTION FROM SAN JUAN BASIN MINES, WITHOUT RAIL ACCESS, TOTALS ONLY SOME 12-13 MMTPY. THUS, TO MEET THESE PROJECTED PRODUCTION TARGETS, COAL MINING MUST EXPAND CONSIDERABLY. WITHOUT A RELIABLE RAILROAD TRANSPORTATION SYSTEM TO SERVE THE PROJECTED MINING OPERATIONS, THEY SIMPLY WILL NOT BE DEVELOPED.

AS NOTED BY THE RECENT ACTIVITIES OF THE DEPARTMENT OF INTERIOR'S REGIONAL COAL TEAM, ESTABLISHED TO HELP SET FEDERAL LEASING TARGETS FOR SAN JUAN BASIN COAL, THE MAJOR CONSTRAINT TO DEVELOPMENT IS LACK OF A COAL TRANSPORTATION FACILITY. THE POTENTIAL SHORTFALL IN DOE PROJECTED PRODUCTION GOALS, WITHOUT SUCH A FACILITY, CAN REASONABLY BE ESTIMATED AT 12 MMTPY IN 1985, 45 MMTPY IN 1990, AND 47 MMTPY IN 1995. ASSUMING THAT ALL MINING OCCURS ON FEDERAL LANDS, AND THE STATE THEREFORE RECEIVES ONLY ONE-HALF OF THE 12.5% COAL ROYALTIES, THAT SEVERANCE TAXES REMAIN AT TODAY'S RATE OF APPROXIMATELY 82.6¢/TON AND THAT COAL SELLS FOR \$25/TON IN CONSTANT DOLLARS, THE FISCAL LOSS TO THE STATE,

CONSIDERING ROYALTY AND SEVERANCE TAXES ONLY, EQUATES TO \$29 MILLION, \$107 MILLION AND \$112 MILLION FOR THE YEARS 1985, 1990 AND 1995, RESPECTIVELY. THESE NUMBERS DO NOT INCLUDE STATE CONSERVATION OR RESOURCE TAXES, ADDITIONAL SIZEABLE ECONOMIC BENEFITS WOULD POTENTIALLY ACCRUE TO THE STATE THROUGH INCREASED EMPLOYMENT AND ATTENDANT GENERATION OF TAX AND REVENUES.

I WOULD LIKE TO OFFER A RECENT EXAMPLE OF HOW THE LACK OF TRANSPORTATION FACILITIES ARE RIGHT NOW HINDERING DEVELOPMENT OF NEW MEXICO'S COAL RESOURCES, AND THOSE OF THE SAN JUAN BASIN, IN PARTICULAR. SOUTHWESTERN PUBLIC SERVICE COMPANY IS SEEKING A FUEL SUPPLY FOR A NEW GENERATING STATION IN LUBBOCK COUNTY, TEXAS. PRIMARY AND SECONDARY FUEL CONTRACTS OVER THE 35-YEAR LIFE OF THE PROJECT COULD REQUIRE APPROXIMATELY ^{per unit} 60 MILLION TONS OF COAL TO BE DELIVERED BEGINNING IN 1989. SOUTHWEST PUBLIC SERVICE HAS EXPRESSED A STRONG INTEREST IN ACQUIRING SAN JUAN BASIN COALS FOR THEIR PROJECT, YET WOULD HESITATE TO SIGN A CONTRACT DUE TO THE LACK OF A COAL TRANSPORTATION SYSTEM. SPS HAS APPARENTLY INVESTIGATED THE LIKELIHOOD OF CONSTRUCTING AND PLACING IN-SERVICE THE STAR LAKE RAILROAD IN THE NEAR FUTURE. WE ARE ADVISED THAT SPS CAME AWAY FROM ITS STUDIES WITH THE DISTINCT IMPRESSION THAT THE STAR LAKE PROJECT HAS, AT THIS TIME, TOO MUCH UNCERTAINTY ASSOCIATED WITH IT TO MAKE SAN JUAN COAL DELIVERIES A TRULY VIABLE OPTION FOR THEIR TEXAS PROJECT. THUS, WHILE SPS IS

ENCOURAGING PRODUCERS WITH SAN JUAN BASIN COAL RESOURCES TO SUBMIT BIDS FOR THE FUELS CONTRACTS, THEY HAVE MADE IT CLEAR THAT THEY WILL NOT BE PUT INTO THE POSITION OF EITHER FINANCING THE STAR LAKE VIA CONTRACTUAL OBLIGATIONS, OR OF SIGNING A CONTRACT ON THE CONTINGENCY THAT THE LINE WOULD BE BUILT IN A TIMELY MANNER. IF THE STAR LAKE IS IN PLACE, SPS FEELS SAN JUAN COAL REPRESENTS A VIABLE ALTERNATIVE TO POWDER RIVER AND OTHER NON-NEW MEXICO COAL SOURCES. HOWEVER, SPS IS REQUESTING THAT ANY BIDDER OFFERING SAN JUAN BASIN COAL ALSO PROVIDE AN ALTERNATIVE BACKUP SOURCE OF COAL THAT IS ACCESSIBLE VIA AN EXISTING TRANSPORTATION FACILITY.

IT MAY BE OF INTEREST TO THE COMMITTEE TO NOTE THAT SPS EXPRESSED THE OPINION THAT THEY WOULD ALSO BE VERY INTERESTED IN ALTERNATIVE MODES OF COAL TRANSPORTATION. THE RECENT HISTORY OF COAL FREIGHT RATES FROM THE POWDER RIVER BASIN PROVIDES A CLASSIC EXAMPLE OF THE RAIL INDUSTRY'S TENDENCY TO CONSTANTLY RACHET UP COAL FREIGHT RATES ONCE DELIVERY CONTRACTS ARE IN PLACE, AND MUST GIVE PAUSE TO ANY PURCHASER WHO IS RELIANT UPON THE RAILROADS FOR COAL DELIVERIES. THUS, COAL SLURRY PIPELINES MAY OFFER EFFECTIVE ALTERNATIVES TO THE RAILROAD DILEMMA, GIVEN THAT ECONOMIC, TECHNICAL, RESOURCE, AND POLITICAL PROBLEMS COULD BE OVERCOME.

IN CLOSING, I WOULD LIKE TO MENTION THAT MY REMARKS ARE NOT NECESSARILY LIMITED IN THEIR APPLICABILITY ONLY TO THE SAN

JUAN BASIN, OR TO RAILROAD TRANSPORTATION. OTHER AREAS IN THE STATE SHOULD ALSO BE CAREFULLY SCRUTINIZED FOR NONEXISTENT OR INADEQUATE FACILITIES. AS I MENTIONED, RAILROAD ALTERNATIVES, SUCH AS COAL SLURRY PIPELINES, MERIT EXAMINATION. FINALLY, ONE MORE ELEMENT SHOULD NOT BE OVERLOOKED, NAMELY, THE REQUIREMENT FOR ADEQUATE HIGHWAYS. MANY POTENTIAL COAL MINING PROSPECTS ARE REMOTE FROM THE EXISTING HIGHWAY SYSTEM. DEVELOPMENT OF THESE PROJECTS MAY BE HIGHLY DEPENDENT ON THE ABILITY OF A WORK FORCE TO COMMUTE TO AND FROM WORK. LIKE OUR OWN OPERATIONS, THE INITIAL PHASES OF MINE DEVELOPMENT MAY REQUIRE THAT COAL BE TRANSPORTED TO MARKETS, OR RAIL TRANS-SHIPMENT POINTS, BY TRUCK.

THUS, THE ENTIRE RANGE OF TRANSPORTATION OPTIONS NEED TO BE EXPLORED AND TAILORED TO SPECIFIC GEOGRAPHIC AND PROJECT REQUIREMENTS. WHERE THE PRIVATE SECTOR IS UNABLE TO PROVIDE VIABLE TRANSPORT SYSTEMS, THE STATE SHOULD VIEW THE CHANCE TO STIMULATE COAL PRODUCTION AS AN OPPORTUNITY TO CREATE THE NECESSARY JOBS AND REVENUES FOR CURRENT AND FUTURE GENERATIONS, AND AS A PRUDENT STEP TOWARD INSURING THE LONG-TERM VIABILITY OF THE STATE.

THE MEMBERS OF THE COMMITTEE SHOULD RECOGNIZE THAT TIMELY DEVELOPMENT OF THE STATE'S COAL RESOURCES IS OF THE UTMOST IMPORTANCE. NOW IS THE TIME TO ENSURE THAT THE STATE'S

PRODUCERS HAVE ACCESS TO THE COMING MARKETS FOR NEW MEXICO COAL IN (TEXAS, ARIZONA, CALIFORNIA AND HERE AT HOME.)

THE NEW WAVE OF MARKET OPPORTUNITIES CURRENTLY PRESENTING THEMSELVES MUST BE TAKEN ADVANTAGE OF. NEW MEXICO MUST BE WELL POSITIONED TO CAPTURE NEW CONTRACTS WHEN THEY BECOME AVAILABLE, OR UTAH, COLORADO, WYOMING AND MONTANA WILL CAPTURE THE REGIONAL MARKETS FOR MANY YEARS TO COME, AND THEIR CITIZENS AND TREASURIES WILL REAP THE VAST MAJORITY OF ECONOMIC BENEFITS THAT WILL BE CREATED. WITHOUT ADEQUATE TRANSPORTATION SYSTEMS, NEW MEXICO COAL PRODUCERS, ESPECIALLY THOSE IN THE SAN JUAN BASIN, WILL LITERALLY MISS THE BOAT FOR THE NEXT 15-20 YEAR PERIOD, AND PERHAPS MUCH LONGER.



Information: 505/835-5420
Publications: 505/835-5410

New Mexico Bureau of Mines & Mineral Resources
Socorro, NM 87801

OK ✓

A DIVISION OF
NEW MEXICO INSTITUTE OF MINING & TECHNOLOGY

February 26, 1983

Honorable Jack M. Morgan
New Mexico Senate
Legislative-Executive Building
Santa Fe, New Mexico 87503

Dear Senator Morgan:

Thank you for the request to support Senate Bills 89 and 90. These could lead to the building of the railroad to the interior of the San Juan Basin, which is necessary to develop the vast coal resources of that large region. The obvious help to New Mexico's economy and added taxes are very important, especially at this time when we need good jobs and increased state revenue.

I had planned to be available at the joint-hearing on March 1, 1983, to offer supportive comments. However, late last night, Friday, I was informed of a schedule change that prevents my attendance. I am serving on a National Academy of Science committee which is reviewing the national Coal Surface Mining Act and resulting regulations set up by the federal Office of Surface Mining. These impact greatly on New Mexico owing to the almost unique climatic and topographic aspects of our State's coal fields. Our New Mexico Bureau of Surface Mining and the New Mexico Coal Surface Mining Commission have lead the way in attempting to have local regional variations considered by OSM, thus believe my representation of western coal surface mining is useful on this committee - which will recommend changes to OSM, and in part these changes are based on practices in New Mexico. The spring meeting of the NAS committee was scheduled for March 2, but because of the large number of items to be considered, it has just been rescheduled for February 28 through March 2.

You do have a good number of expert persons supporting the bills for your hearing. Enclosed are several copies of the comments I would make, related to a map of the San Juan Basin. The coal resources are large, there are significant mines already permitted that would be served by the railroad, and others are planned for the near future, if the railroad is built.

We wish you success in this beneficial legislation for New Mexico.

Sincerely yours,

Frank E. Kottowski
Director

FEK:fek

Enclosures

Exhibit #3



Information: 505/835-5430
Publications: 505/835-5410

New Mexico Bureau of Mines & Mineral Resources
Socorro, NM 87801

OK ✓

A DIVISION OF
NEW MEXICO INSTITUTE OF MINING & TECHNOLOGY
COAL RESOURCES AND COAL MINES SERVED BY THE
PROPOSED STAR LAKE RAILROAD
February 1983

As shown on the attached map, the main coal fields served by the proposed Star Lake Railroad would be the Bisti and Star Lake areas of the Fruitland Formation coal and the Chaco Canyon, Chacra Mesa, San Mateo, Crownpoint and Standing Rock areas of Mesaverde coals in the Menefee and Crevasse Canyon Formations. If the northwestern end of the western fork of the railroad were extended, it could also serve the Navajo and Fruitland fields of Fruitland Formation coals and perhaps even the Newcomb area of Menefee coals.

The coal resources of these various fields are listed on the attached map divided into three categories related to depths of coals: 1) 0-150 feet, 2) 150-250 feet and 3) 250-1,000 feet. The first category can be strip mined using present equipment, the second category can be strip mined under certain favorable conditions using present equipment and will be strip mined in future years using larger equipment. The third category can be mined only underground.

The total for strippable coal in the 0-150 feet category is 4.1 billion tons and for the strippable category of 150-250 feet is more than 2.8 billion tons. These are very likely conservative calculations.

Four permits have been granted by the New Mexico Bureau of Surface Mining: Lee Ranch Mine by Santa Fe Mining, South Hoshpah by Chaco Energy, Gallo Wash by Alamito Coal and Gateway Mine by Sunbelt Coal. Permits are pending for the Star Lake Mine of Chaco Energy, a Black Lake Mine by Western Associated, two mines by Arch Minerals, and the Blanco Nageezi area of Salt River Project. In addition, the Burnham Mine of Consolidated Coal is presently operating in the southern part of the Navajo field and could expand if the Star Lake railroad were built. If the railroad is built in the near future, the possible production from these mines for 1986 could be 6.4 million tons per year and that could be doubled by 1990.

The main references for coal data are as follows:

Shomaker, Beaumont and Kottlowski (1971) Strippable Low-Sulfur Coal Resources of the San Juan Basin: Memoir 25, New Mexico Bureau of Mines and Mineral Resources, 180 p., 59 figs., 87 tables, 4 plates.

Speer, Beaumont and Shomaker (1977) Coal Resources of the San Juan Basin in New Mexico: Open File Report 84, New Mexico Bureau of Mines and Mineral Resources, 103 p., 4 tables, 3 figs., and a lease map.

New Mexico Energy and Minerals Department (1982) Coal in Annual Resources Report, p. 36-46.

Kottlowski, Campbell, Roybal and Martinez (1982) New Mexico Coal Seams: Keystone Coal Industry Manual, McGraw Hill, New York, New York, p. 586-595.

Frank E. Kottlowski

Estimate of Coal Resources available to Star Lake Railroad (In millions of tons:
0 to 150 feet; 150-250 feet; 250-1,000 feet) (ND = not determined; E = estimated)

Fruitland Formation coals:

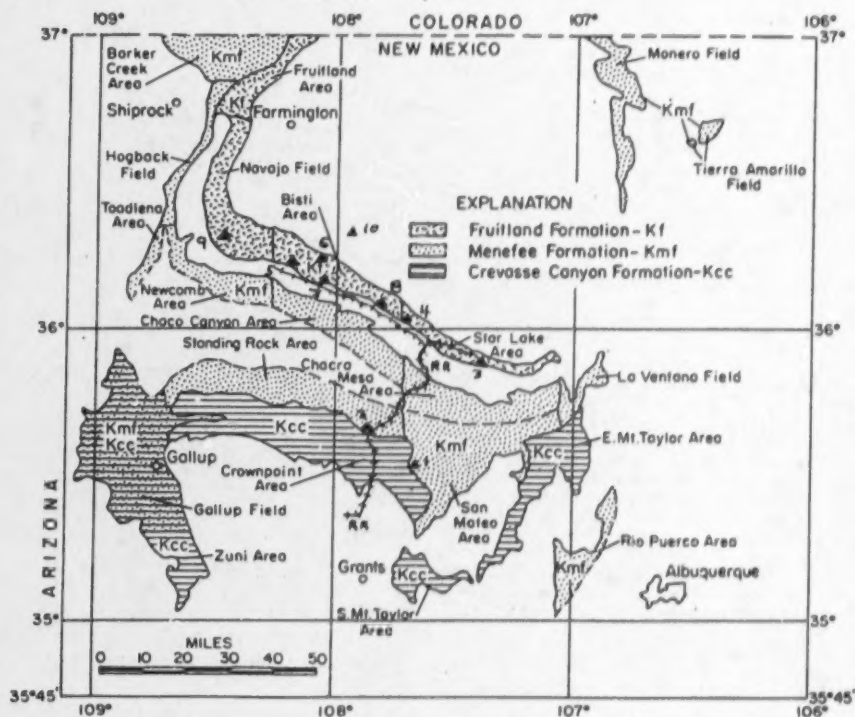
Fruitland Field	110	65	280+
Navajo Field	1,935	1,350	ND
Bisti Area	958+	912	860+
Star Lake Area	455+	270+	1,570

Mesav. de Group coals:

Newcomb Area	163E	50E	ND
Chaco Canyon	31E	ND	ND
Chacra Mesa	140E	140E	ND
La Ventana	22E	ND	42+
Standing Rock	64	75	ND
San Mateo	233	130+	ND
Crownpoint	17E	ND	ND

Totals:

0 - 150 feet =	4,148
150 - 250 feet =	2,875+
250 - 1,000 feet =	2,752+



Permitted Mines:

1. Lee Ranch, Santa Fe Coal Corp.
2. South Hespah, Chaco Energy
4. Gallo Wash, Alamito Coal Co.
5. Gateway Mine, Sunbelt Mining Co.
9. Burnham Mine, Consolidation Coal

Planned Mines:

3. Star Lake, Chaco Energy
6. Black Lake, Western Associates
7. Arch Minerals
8. Arch Minerals
10. Blanco Nageezi, Salt River Project

Coal Fields in the San Juan Basin.

February 1983 estimate by New Mexico Bureau of Mines & Mineral Resources
KEYSTONE COAL INDUSTRY MANUAL

EVALUATION AND COMMENT ON THE
NEW MEXICO COAL MARKET STUDY

by

Brian McDonald, Director

Bureau of Business and Economic Research
Institute for Applied Research Services
University of New Mexico
February 21, 1983

EXhibit #4

EVALUATION AND COMMENT ON THE NEW MEXICO COAL MARKET STUDY

Background

The New Mexico Energy Research and Development Institute (NMERDI) in 1982 commissioned a study of the prospects for New Mexico coal development between 1981 and 2000. The study consists of three parts: a macro or top-down projection of New Mexico coal production, a site-specific or bottom-up approach to both coal production capacity and demand for New Mexico coal in the future, and an evaluation of legal and institutional impediments to coal development in New Mexico. The focus of this present evaluation is concerned with the top-down and bottom-up projections for New Mexico coal. The evaluation of legal and institutional impediments to coal development, while important to the eventual prospects for coal development in New Mexico, is not discussed here.

Data Resources, Inc. (DRI) was responsible for the macro or top-down projection of New Mexico coal production. DRI uses econometric models of regional demand for energy by sector and fuel type and allocates New Mexico's share of regional demand for coal based on a consideration of the delivered price per Btu content. This approach accounts for the unique characteristics of New Mexico coal compared to other regions' coal as well as the transportation costs of New Mexico coal to potential markets. Temple, Barker, and Sloane, Inc. (TBS) was responsible for the site-specific or bottom-up approach to New Mexico coal development. Via survey of individual coal producers and coal users in the market area, TBS estimated the future coal production capacity within New Mexico as well as the "potential" demand for New Mexico coal.

Both studies are well documented and complement each other very well. Together they provide an excellent foundation for evaluating the future prospects for New Mexico coal development. The DRI report provides economic-based projections of demand for New Mexico coal which can be compared to the site-specific information on coal capacity within New Mexico. This comparison then reveals the adequacy of coal capacity to meet the projected demand, and vice versa. This comparison is also important for evaluating the need for new railroad transportation in the San Juan Basin to open up New Mexico coal capacity to meet potential future demand. The TBS site-specific estimates of demand for New Mexico coal, in turn, provide an independent assessment of the realism of the DRI economic-based estimates.

Demand for New Mexico Coal

Table 1 contains three separate projections of the demand for New Mexico coal for the years, 1985-2000: the economic-based projections of DRI, the survey-based projections of TBS and the published projections of the New Mexico Energy and Minerals Department (EMD) which are also economic-based. The TBS projections include two categories: "high potential" and "some-potential." TBS defines "high potential" demand as an existing or future utility plant that is owned by a utility that is already buying or has expressed a preference for buying New Mexico coal. TBS assumes New Mexico coal producers will be able to capture a very large portion of this demand. This is predominantly New Mexico and Arizona utilities. TBS defines "some potential" demand as a future utility plant that is owned by a utility that has expressed a preference for buying coal from a region other than New Mexico or that presently operates a plant that has existing long-term contracts with non-New Mexico coal suppliers.

TABLE 1

DEMAND FOR NEW MEXICO COAL
1985-2000
(million tons)

	1985	1990	1995	2000
<u>DRI</u>				
San Juan Basin	21.2	28.4	51.5	68.9
Raton	<u>0.4</u>	<u>1.1</u>	<u>2.2</u>	<u>4.5</u>
TOTAL	21.6	29.5	53.7	73.4
<u>TBS</u>				
High Potential Utility (Arizona and New Mexico)	23.5	25.6-30.7	33.4-44.5	na
Some Potential (Export)*	<u>6.6</u>	<u>16.9</u>	<u>23.9</u>	<u>na</u>
TOTAL	30.1	42.5-47.6	57.3-68.4	na
<u>New Mexico Energy and Minerals Department (EMD)</u>				
TOTAL (Mid-scenario)	18.47	24.47	59.4	83.9

na Not available.

Source: New Mexico Coal Market Study, Module I, Volume I, Data Resources, Inc., October 13, 1982; Quantitative Assessment of Actual Transactions, Temple, Barker and Sloane, Inc., October, 1982; Annual Resources Report, New Mexico Energy and Minerals Department, 1982.

* Export outside Arizona-New Mexico market area.

The TBS "high potential" demand represents primarily the demand for New Mexico coal originating in Arizona and New Mexico. This is the market where New Mexico coal producers currently have the greatest competitive advantage and where they are likely to continue to have the greatest competitive advantage in the future. Closeness to the market and low transportation costs determine this competitive advantage. The TBS "some potential" demand represents the potential coal market outside the Arizona-New Mexico region where New Mexico producers must compete against other regional coal producers (Green River and Powder River Basin coal), but where New Mexico's competitive advantage is not clear cut. Future mining costs and transportation costs will determine the success of New Mexico coal producers in capturing this "export"¹ market. The DRI and EMD projections are economic-based and have taken into account assumptions about the future competitive advantage of New Mexico coal producers. Thus, the DRI and EMD projections account for some portion of the TBS "some potential" demand which will be captured by New Mexico coal producers.

It is evident from Table 1 that neither DRI nor EMD believe that New Mexico coal producers will capture a significant portion of the "some potential" or export market until after 1990. The DRI and EMD projections for 1985 and 1990 are comparable to the TBS "high potential" demand, which again is primarily the Arizona and New Mexico regional coal market. By 1995 New Mexico begins to capture a share of the export coal market, as the DRI and EMD projections are now more comparable to the total TBS projection which includes both non-export and export coal market.

1. "Export" throughout this paper is used to refer to all New Mexico coal shipped out of the Arizona-New Mexico market area rather than coal shipped in international trade.

Coal Demand Versus Coal Capacity in New Mexico

Table 2 places these demand projections within a different perspective, i.e., comparing projected demand to projected coal capacity between 1985 and 1995. Projected coal capacity in the San Juan Basin was taken from the TBS study and is shown for coal mines that do and do not depend upon the proposed Star Lake Railroad. Non-Star Lake Railroad mines are primarily existing mines plus the Lee Ranch, La Plata and Ideal Basic mines. The Star Lake Railroad mines depend upon the availability of rail transportation to market the coal. What is clear from Table 2 is that non-Star Lake Railroad mine capacity is sufficient to meet projected demand in 1985 and 1990 under either DRI, EMD or TBS high potential demand projections. In 1985 non-Star Lake Railroad mines' capacity is 22.2 million tons compared to demand forecasts that range from 18.47 to 23.5 million tons; in 1990 non-Star Lake Railroad mines' capacity is 27.1 million tons compared to demand forecasts that range from 24.47 to 30.7 million tons. In each case above the high end of the demand forecast range is the TBS "high potential" forecast, which represents a quantitative "projection" in the sense that New Mexico coal producers captured 100 percent of this "high potential" market. TBS does not assume such. Thus, the mine capacity from Star Lake Railroad mines is not required to meet projected demand until after 1990.

In 1995 it is clear that Star Lake Railroad mine capacity will be required to meet the projected demand. DRI and EMD projections for demand range from 51.5 to 59.4 million tons, while non-Star Lake Railroad mine capacity ranges only from 30.3 to 38.3 million tons. When Star Lake Railroad mine capacity is added in 1995, total New Mexico projected coal capacity ranges from 39.3 to 58.3 million tons.

TABLE 2
COMPARISON OF NEW MEXICO COAL
DEMAND PROJECTIONS TO NEW MEXICO COAL CAPACITY
1981-2000
(millions tons)

	1985	1990	1995
<u>Demand</u>			
San Juan Basin (DRI)	21.2	28.4	51.5
High Potential (TBS)	23.5	25.6-30.7	33.4-44.5
EMD	18.47	24.47	59.4
Total TBS	30.1	42.5-47.6	57.3-68.4
<u>Capacity (TBS)</u>			
San Juan Basin			
Non-Star Lake RR Mines	22.2	27.1	30.3-38.3
Star Lake RR Mines	3.0	9.0	9.0-20.0
TOTAL	25.2	36.1	39.3-58.3

Source: New Mexico Coal Market Study, Module I, Volume I, Data Resources, Inc., October 13, 1982; Quantitative Assessment of Actual Transactions, Temple, Barker and Sloane, Inc., October, 1982; Annual Resources Report, New Mexico Energy and Minerals Department, 1982.

TABLE 3
NEW MEXICO COAL PRODUCTION AND EXPORT
1981-2000
(millions tons)

	1981	1985	1990	1995	2000
NEW MEXICO					
San Juan Basin Production	17.5	21.2	28.4	51.5	68.9
In-State Use	11.3	14.5	15.6	21.5	35.0
Export Out of New Mexico	6.2	6.7	12.8	30.0	33.9
Export as % of Total Production	35.4%	31.6%	45.1%	58.3%	49.2%

Source: DRI.

Table 2 also illustrates that the Star Lake Railroad mine capacity will be required to meet primarily an "export" demand in west Texas and California. In Table 2 the TBS "high potential" demand represents principally the Arizona and New Mexico markets for New Mexico coal. In 1995 TBS estimates this demand at between 33.4 and 44.5 million tons, compared to a non-Star Lake Railroad mine capacity of between 30.3 and 38.3 million tons. Since TBS does not assume that New Mexico coal mines will capture 100 percent of the "high potential" market, these data indicate that the non-export (Arizona and New Mexico) portion of the demand for New Mexico coal can be met even in 1995 by non-Star Lake Railroad mines. The Star Lake Railroad mines are required if New Mexico coal producers are to capture some of the export market for coal that will exist in west Texas and California after 1990. Both DRI and EMD's projections indicate that New Mexico coal producers, based upon projected mining costs and transportation costs, will be able to capture some export market then. However, this export market cannot be tapped unless the Star Lake Railroad mines come on-stream.

Export Potential for New Mexico Coal²

The DRI study contains detailed information on the export potential for New Mexico coal. Table 3 shows New Mexico coal production to the year 2000 broken out between in-state use and exports. In 1981 exports of New Mexico coal from the San Juan Basin accounted for 35.4 percent of production according to DRI. However, by 1995 and 2000 exports will account for between 49.2 and 58.3 percent of New Mexico production. In-state use over this time period, increases somewhat between 1981 and 1985 reflecting the Plains Electric Escalante 1 plant coming on-line and the completion of PNM's San Juan Station.

² Export here refers to coal shipped out of New Mexico to other regions including Arizona.

Between 1985 and 1990 in-state demand for coal is basically flat reflecting the reliance on New Mexico's share of the nuclear Palo Verde power plant to meet expanding demand. Growth in production during this time is due almost entirely to export. Exports expand from 6.7 million tons to 12.8 million tons in 1990. Some of this export is to Arizona for the Springerville Power Plant from the Lee Ranch Mine; but some of this export DRI assumes will go to west Texas. In 1995 in-state coal demand expands as Escalante 2 and the New Mexico Station 1 and 2 come on-line; but exports expand dramatically to 30.0 million tons from 12.8 million in 1990.

Thus, in DRI's projection of New Mexico coal production to the year 2000 a substantial portion of future demand is export demand. DRI bases this conclusion on an economic analysis comparing the competitiveness of New Mexico coal, as measured by the delivered price per Btu content, with coal from the Green River and Powder River regions--New Mexico's major competitors. DRI's analysis shows that New Mexico coal can be competitive particularly in the west Texas and California markets. Furthermore, sensitivity analysis done by DRI indicated that their conclusions with respect to the potential export market for New Mexico coal are not particularly sensitive with respect to assumptions about rail rates between regions. That is, higher or lower rates would not change their conclusions significantly. This suggests a high confidence in the DRI results with respect to New Mexico exports of coal. As the TBS study indicates, this export demand for New Mexico coal in the 1990s can only be met by the expansion of the Star Lake Railroad mines.

Need for the Star Lake Railroad Today

The analysis above indicates that the Star Lake Railroad, and the coal mines that it will serve, will be needed after 1990 in order to meet the

projected demand for New Mexico coal. However, the need for the railroad or at least the commitment to build the railroad is more immediate. As the TBS study points out, utilities make long-term commitments to buy coal in advance of plant construction. "Almost all coal burned in electric utility powerplants is under long term contract. Based on TBS's survey results, the average contract duration is approximately 20-25 years and ranges from 5 to 40 years."

Coal characteristics are major determinants of utility boiler requirements and design. A utility must know well in advance of plant construction the type of coal it will be burning. Over the next few years utilities in this market area (Arizona, New Mexico, west Texas, California) will be signing commitments for coal delivery in the early 1990s. The coal demand projected by DRI, TBS and EMD for the 1990s will be placed on contract within the next few years. According to the TBS study "utilities generally require detailed development plans, allocated reserves, and assured transportation." New Mexico coal producers must have a commitment then to build the Star Lake Railroad within the next few years in order to participate in the projected coal market of the 1990s. ,



Bruce King
Governor

John D. Salas
Secretary

STATE OF NEW MEXICO

Economic Development Division
COMMERCE AND INDUSTRY DEPARTMENT

Bataan Memorial Building
Santa Fe, New Mexico 87503
(505) 827-9671

ECONOMIC IMPACT OF STAR LAKE RAILROAD

The economic impact of the proposed Star Lake Railroad is concentrated in the coal development of the area. The railroad would have additional benefits for product shipments to and from the Farmington, southern Colorado, and from the Navajo irrigation project.

In-depth calculations and data is presented for 1985 and 1990 - A summary of direct benefits to the State of New Mexico are as follows:

	<u>1985</u>	<u>1990</u>
Royalty on Coal Produced in State Lands	\$ 4,731,919	\$ 25,169,062
Royalty on Coal Produced in Federal Lands	10,953,516	33,264,844
Severance Tax	14,438,480	36,178,800
Resource Excise Tax	2,474,348	7,372,772
Conservation Tax	716,383	2,134,593
Gross Receipts Tax on Coal	5,278,610	15,728,580
Corporate Income Tax on Coal Companies	961,462	2,864,848
State Personal Income Tax on Employees	410,000	1,030,000
Gross Receipts Taxes on Employee Expenditures	<u>897,000</u>	<u>2,253,000</u>
TOTAL	\$40,861,718	\$ 125,996,499

The study includes payback and break-even projections on the railroad.

Exhibit # 4a

*McGuffin's
Work Copy*

COAL PRODUCTION

Projected production of mines dependent upon the Star Lake Railroad.

(figures in millions of tons)

<u>MINE</u>	<u>1985</u>	<u>1990</u>
Chaco S. Hospah	3.00	3.40
Chaco Star Lake	3.00	6.00
Santa Fe Mining	1.00	3.00
Alamite Gallo Wash	1.33	4.60
Arch Minerals #1	1.00	3.00
Arch Minerals #2	-	3.00
Sunbelt Bisti	0.25	2.50
Western Assoc.	1.00	5.00
Consol Burnham	6.40 ←	12.80 ←
Salt River	0.50	0.50
TOTAL	17.48	43.80

COAL PRODUCTION PROJECTIONS BY LAND OWNERSHIP

(figures in millions of tons)

	<u>1985</u>		<u>1990</u>	
	<u>Tons</u>	<u>Percent</u>	<u>Tons</u>	<u>Percent</u>
Federal	8.125	46.5	20.75	47.3
State	1.755	10.0	7.85	18.0 ← ?
Other	7.600	43.5	15.20	34.7
TOTAL	17.480	100.0	43.80	100.0

ROYALTY PAYMENTS

Coal production royalties from state and federal lands are paid to the State of New Mexico by the producer. These benefits to the state are calculated at 12.5% of the value of the coal from state land and half that amount from federal land. These benefits to the state are calculated using projected coal prices using mid-price scenario projections prepared by the Energy and Minerals Department in their 12-31-81 publication Current Assessment and Projections for Energy Resources in New Mexico.

All prices are given in 1980 dollars.

Royalty on Coal Produced in State Land

	<u>1985</u>	<u>1990</u>
Production in tons	1,755,000	7,850,000
12.5% royalty in tons	219,375	981,250
Projected coal price per ton	<u>\$ 21.57</u>	<u>\$25.65</u>
Total Royalty	\$4,731,919	\$25,169,062

Royalty on Coal Produced in Federal Land

	<u>1985</u>	<u>1990</u>
Production in tons	8,125,000	20,750,000
6.25% royalty in tons	507,812	1,296,875
Projected coal price per ton	<u>\$21.57</u>	<u>\$25.65</u>
Total Royalty	\$10,953,516	\$33,264,844

SEVERANCE TAXES

There are three severance taxes applied to New Mexico coal production:

1. Severance Tax - This tax is levied at a rate of 57¢ per ton plus a surtax which is currently 25.6¢ per ton and adjusted yearly by multiplying the base rate by the change in the Consumer Price Index. The current tax is 82.6¢ per ton and we use this figure to maintain a current dollar projection's constant.

	<u>1985</u>	<u>1990</u>
Total new production in tons	17,480,000	43,800,000
Severance Tax	<u>\$0.826</u>	<u>\$0.826</u> CPI
Total Severance Tax	\$14,438,480	\$36,178,800

2. Resource Excise Tax - This tax is levied on a producer of coal at a rate of 0.75 percent of taxable value. The value is equivalent to the total amount of money received for the coal, less royalty paid to Federal and State governments.

	<u>1985</u>	<u>1990</u>
Total new production in tons	17,480,000	43,800,000
Less royalties of 12.5%	15,295,000	38,325,000
Times projected price per ton	<u>\$21.57</u>	<u>\$25.65</u>
Value subjects to tax	\$329,913,150	\$983,036,250
Resource excise tax rate	0.75%	0.75%
Total resource excise tax	\$2,474,348	\$7,372,772

3. Conservation Tax - Which is levied on the value of coal production at a rate of 0.19%.

	<u>1985</u>	<u>1990</u>
Total new production	17,480,000	43,800,000
Times projected price per ton	<u>\$21.57</u>	<u>\$25.65</u>
	\$377,043,600	\$1,123,470,000
Conservation tax rate	<u>0.19%</u>	<u>0.19%</u>
Total Conservation Tax	\$716,383	\$2,134,593

GROSS RECEIPTS TAX

If we calculate that 40% of new production is to be consumed in New Mexico then gross receipts taxes will be collected by the state. These are calculated as follows:

	<u>1985</u>	<u>1990</u>
Total additional coal production	17,480,000 tons	43,800,000 tons
40% in state consumption	6,992,000 tons	17,520,000 tons
Average price of coal	<u>\$21.57</u>	<u>\$25.65</u>
Total value of coal used in New Mexico	\$150,817,440	\$449,388,000
3.5% gross receipts tax	5,278,610	15,728,580

The above price of coal is the FOB price and does not include value added due to transportation costs from the mine to point of consumption.

CORPORATE INCOME TAXES

Coal company corporate income tax payments are calculated using Robert Morris Associates industry analysis which reflect that the average USA coal industry net profit, on net sales, is approximately 5.1%. State corporate income tax is calculated at 5% of net income, one percent below the maximum 6% rate and one percent above the minimum 4% rate.

	<u>1985</u>	<u>1990</u>
Total new coal production	17,480,000	43,800,000
Average price per ton	<u>\$21.57</u>	<u>\$25.65</u>
Total value of new coal	\$377,043,600	\$1,123,470,000
Industry net income rate	<u>5.1%</u>	<u>5.1%</u>
Industry net income	\$ 19,229,224	\$ 57,296,970
State corporate income tax rate	<u>5.0%</u>	<u>5.0%</u>
State corporate income tax	\$ 961,462	\$ 2,864,845

EMPLOYMENT PROJECTIONS

It is calculated by industry that one miner will produce about 8,500 tons of coal per year in an average open pit mine. We therefore calculate additional employment to be about 2,050 in 1985 and increase to 5,150 by 1990.

Open pit miners currently earn between \$20,000 and \$32,000 per year. In current dollars we calculate the economic benefit at \$25,000 per employee. These figures translate as follows:

	<u>1985</u>	<u>1990</u>
Payroll	\$ 51,250,000	\$ 128,750,000
State personal income taxes (1)	410,000	1,030,000
Gross receipt taxes (2)	897,000	2,253,000

(1) Calculated for a married man with two children.

(2) Calculated at 50% of income at the current 3.5% gross receipts tax rate.

INDIRECT BENEFITS AND BURDENS

We have addressed the direct benefits to the state associated with a new production worker. Additional benefits and burdens to a community are calculated for the projected employment as follows:

	<u>1985</u>	<u>1990</u>
More people	7,360	18,490
More school children	1,863	4,686
More households	2,050	5,150
More passenger cars	1,950	4,950
Additional jobs in support industry	1,350	3,350

Please note that many of these benefits are currently part of the New Mexico economy because some of these employees are currently unemployed or underemployed.

There are other revenues from coal production which are not addressed in this study and include bonus and rental payments from state lands, an Abandoned Mine Reclamation fee which is assessed at a rate of \$0.35 per ton for surface mine producers, and property taxes to be assessed on the mining properties.

CAPITAL INVESTMENTS

Capital investments in coal mining in New Mexico is substantial. For a mine producing 4 million tons of coal per year it currently approximates \$100 million, not including costs of exploration, land acquisition, or leasing.

625
120
14

PAYBACK AND BREAK-EVENAssumptions:

1. Life of rail line estimated at 20 years to be used for purposes of loan amortization and depreciation purposes.
2. Average trip to be 75 miles.
3. Interest rate calculated at 12 percent per year.
4. Assessment of 1.5¢ per mile for each ton of coal transported. *2-3 1/4¢*
5. Cost of rail project to be \$160,000,000.

COST PER YEAR

First year's interest expense	\$19,200,000
Loan amortization	<u>8,000,000</u>
Total first year cash outlay	\$27,200,000

This amount will decrease to \$8,960,000 in the last year due to decreased interest expenses.

BREAK-EVEN

Total first year cash outlay	\$27,200,000
Average cost of transporting one ton of coal	\$ 1.125
Total number of tons required to be hauled	24,177,778 tons

This figure will decrease to 7,964,444 tons in the last year due to decreased interest expenses.

The loan could be structured with greater principle repayments in later years which could decrease the break-even point to about 20,000,000 tons of coal per year.

CONSUMPTION OF COAL

It is estimated that by 1990, 50 percent of the electricity generated in the USA will be furnished by coal. Western coal is very attractive since most coal located in the West is low

in sulfur content. In New Mexico, approximately 60% of the electricity generated is produced by coal-fired power plants.

Coal exports from New Mexico generally go west by rail for use in power plants in Arizona and some is consumed by cement plants in Texas and Arizona. Coal has been shipped as far away as Missouri for use in power plants.

PROJECTED USE OF COAL IN NEW MEXICO

There are currently three power plants being built or projected for New Mexico which could use New Mexico coal.

Plains Electric Plant at Pruitt, New Mexico; Public Service Company Plant either in the San Juan Basin adjacent to coal fields or in the Estancia Valley adjacent to water resources; Southwestern Public Service Company in Eastern New Mexico. These three plants could consume in the vicinity of 18 million tons of coal per year.

COAL TRANSPORTATION BY HIGHWAY

Transportation of coal by highway is relatively expensive. Truck rates are typically 5 to 7 cents per ton mile compared to rail rates which are 2 to 3 cents per ton mile. Trucking of coal has the added problem of deteriorating feeder and main roads rapidly, something that is currently taking place. Because of high operating costs, trucks are not practical to move coal from proposed mines in the Bisti area of the San Juan Basin to the AT&SF main line further south. Extensive road construction of sufficient quality would be required to support heavy trucks in all weather conditions.

The proposed railroad would serve the purpose which is inefficiently being performed in existing highways which are funded by state and federal funds.

John Velasco
Commerce & Industry
January 5, 1982



SUPPORT OUR CHAMBER MEMBERS
THEY SUPPORT OUR COMMUNITY

VOLUME V NUMBER 5

SPARKS

FROM THE RESOURCE CAPITAL
FARMINGTON, NEW MEXICO

SEPTEMBER, 1982

RAILROAD ISSUE PICKS UP SPEED



The effort to focus attention on the need for rail service into the San Juan Basin Coal fields is being orchestrated as it never has before. In the face of growing need for the coal which lies south of Farmington and the pressure from overseas and domestic coal users, coupled with the growing competition from coal producers in neighboring states, urgency to solve the railroad construction problem is upon us now. Without action on this issue in the relatively near future, we will be squeezed out of the mainstream of coal production and be forced to defer to other states who will be able to capture and to retain the remaining markets. It is my opinion that this is the season to give it our best shot and that is precisely what is being done. Senator Jack Morgan, our Chamber's Legislative Advisor, has brought this matter into sharp focus through the Interim Energy Transportation Committee proceedings. On Monday, August 30th, the first hearing was held in Santa Fe to assemble the record in support of State involvement. Potential coal purchasers were heard from, their message was very clear: they want to buy our coal. Potential coal producers testified as to the extent, the quality and their ability to produce that coal, if they have the ability to ship it to the ultimate user. Others testified on behalf of the royalties, severance tax and other payments that would accrue to the State of New Mexico; and, yet others added to the record regarding the numbers of persons who would be employed in an operation of the magnitude that rail service would stimulate.

by
PAUL ADKINS

Chamber Executive Director

Local participants have shared their knowledge and insight of the technical and political ramifications involved in a project of this size. Jack Sitton, Chairman of the Chambers's Legislative Committee, brought a wealth of understanding of the political process to the planning sessions prior to the hearing. Don Moseley, Chairman of the Coal and Power Plant Committee, has helped immensely in supplying input as to who in the coal business has specific knowledge regarding various matters of interest. Mark Wiley, of Wiley Engineering, appeared at the hearing on behalf of his clients' interest. Doc Weiler, of the Association of Commerce and Industry, has assembled a highly descriptive map of the various leases and locations. His insight into the political process which will put this issue on the front burner during the legislative session is invaluable to this effort. Charles Young, attorney for the Legislative Council Service in Santa Fe, has assisted immeasurably in making the numerous contacts to get those people to the hearing and assemble an impressive record of need. Coordinating this effort and building a superb record which sharply focuses on the benefits to this area of developing those coal fields, is the Committee Chairman, Senator Morgan. The effort runs far beyond what one would normally expect from a State Legislator. For that matter we have gotten used to superb efforts by all of the Legislators who represent San Juan County, as they too have provided excellent input into this effort.

The railroad effort by no means ends after the hearings are held and the record is established. The proposed legislation will need to be supported and encouraged on a continuing basis at every level of government until it is finally enacted and the benefits to San Juan County can begin to accrue.

Please let us know of your support for this effort. Those of you who are willing to demonstrate your support will certainly have a chance to do so in the near future.

Exhibit #5

Morgan's
work
copy

September 24, 1982

Re: Star Lake Railroad; Statement Before the Energy Resource
Transportation Committee, State of New Mexico

My name is John C. Davis, Senior Vice-President-Executive Department of The Atchison, Topeka and Santa Fe Railway Company. I am here today at the Chairman's invitation on behalf of Santa Fe Railway and its subsidiary, The Star Lake Railroad Company, regarding legislative proposals to provide state funding for rail transportation in New Mexico. My specific concern is the impact of such proposals on the construction of Star Lake Railroad, which construction is of vital necessity to the development of coal reserves in the Star Lake-Bisti region of this state. I have been asked to address three issues:

1. The status of the permitted segment of Star Lake Railroad;
2. The plan, including a timetable, for completing Star Lake Railroad to the eastern Navajo Reservation boundary; and
3. Recommendations for improving the provisions of Senate Bills 103 and 104 which were introduced last session.

As a prelude to my comments regarding the current status of the permitted segment of Star Lake Railroad, I would like to give you a brief summary of Star Lake's original plans and

exhibit #6

timetable and why that timetable has been altered. In the summer of 1974, Santa Fe Railway first announced its plans to build a new line of railroad into the San Juan Basin to provide transportation access for coal to be mined in the Star Lake-Bisti area. I stand here some eight years after our plans were initially announced not just to express my frustration because the line does not yet exist, but to summarize briefly the steps that have been taken and to discuss the obstacles yet to be surmounted before construction of the line can commence.

As many of you may know, it was originally our expectation that the first shipments of coal on the Star Lake line would commence late in 1979. However, in the course of carrying out the Star Lake Railroad project over the past several years, we have been confronted with requirements for documenting location, preparing environmental reports, planning mitigation measures, and submitting a myriad of permits for analysis by government agencies. We have complied with these requirements at substantial expense in the conviction that from this undertaking will come a new railroad which will add an important link in the transportation of coal from mine to user and thus be a significant step toward the state's goal of resource development and the nation's goal of energy self-sufficiency.

The applications for authority to construct Star Lake Railroad were filed with the Interstate Commerce Commission on

September 3, 1976, and April 18, 1977, pursuant to provisions of the Interstate Commerce Act. The Interstate Commerce Act requires the Commission, upon receiving such an application, to determine whether the proposed construction is consistent with "the present or future public convenience and necessity" and authorizes the Commission to approve a construction application and issue a certificate to the applicant carrier if such a determination is made. Approximately four and one-half years intervened between Star Lake's application and the Commission's original decision and order served March 23, 1981, granting authority to construct Star Lake Railroad. During this period, two phases of regulatory proceedings occurred and significantly set back Star Lake's original timetable.

First, consistent with the Commission's obligations under the National Environmental Policy Act, or NEPA, an environmental impact statement (EIS) was prepared as a joint effort of the United States Bureau of Land Management and the United States Bureau of Mines. Preparation of the EIS involved the participation of other federal agencies, including the section of energy and environment of the ICC, as well as academic institutions, representatives of private industry, special interest groups, and members of the general public. Beginning in October of 1976, public meetings and hearings were conducted with broad participation by interested parties, including representatives of the State of New Mexico, the

Navajo Nation, and the private sector. The draft EIS was published on September 29, 1978, and copies were sent, with a letter requesting comments, to over 60 federal, state, local and tribal entities, including I might add, the office of the Navajo Tribal Chairman and the Presidents of the Pueblo Pintado, Torreon and Nageezi Navajo Chapters, among others. As indicated in the final EIS, none of these Navajo representatives responded.

Subsequently, public hearings were held in November at Farmington, Crown Point and Albuquerque. A subsequent draft of the EIS reflecting the various comments which were received was made available to the public and submitted to the Environmental Protection Agency on March 1, 1979. That draft became final on April 12, 1979, 30 days after notice of its submission was published in the Federal Register. The final EIS consists of two volumes and a total of approximately 900 pages and exhaustively addresses the regional and site specific impacts of the proposed rail line on both the physical and human environment, including the proposed line's impact on aesthetic, cultural and historical resources and on the socio-economic environment.

The second aspect of the regulatory proceedings was development of the record before the Interstate Commerce Commission. Star Lake, having filed its first Return To Questionnaire under ICC procedures on February 15, 1977, filed

an Amended Return To Questionnaire on December 28, 1979. Subsequently, on April 17, 1980, Star Lake filed its Opening Statements under the ICC's so-called "modified procedure." New Mexico Navajo Ranchers' Association, Pueblo Pintado Chapter and a Navajo named Martin Martinez, all represented by DNA-People's Legal Services, Inc., sought leave to intervene in the Commission proceeding in May of 1980. Another intervening party, the Continental Divide Trail Society, filed Statements in March and in May of 1980 objecting to Star Lake's application. Star Lake filed Reply Statements on June 6, 1980.

It should be noted here that simultaneously with developing the record in our regulatory proceedings before the Commission, we were actively engaged in negotiations with the Navajo Nation's Chapter Energy Negotiating Team (CENT). The CENT group was formed by Chairman Peter MacDonald at the behest of Interior Secretary Andrus to conclude Star Lake right-of-way acquisition over tribal trust and tribal fee lands. On January 12, 1981, an Agreement was executed by Star Lake Railroad Company, The Atchison, Topeka and Santa Fe Railway Company and the Navajo Nation granting right-of-way and endorsing the entire Star Lake Railroad project. Thus, it should be emphasized that the Navajo Nation supports construction of the line and the ensuing legal actions with which we have been confronted were brought by several individual Navajo allotment holders represented by DNA-People's Legal Services, Inc., not acting on behalf of the Navajo Nation.

On March 23, 1981, the Commission, having considered the contentions of all parties to the proceedings and evidence submitted in support thereof, made the findings required by statute. The Commission found that construction of the proposed Star Lake line is essential to coal development in the affected region and that "the need to foster the development of additional energy resources is great." The Commission addressed the issues raised by the intervening parties as to whether the benefits of the proposed line were outweighed by any real or potential adverse effects upon the particular region and its population and whether Star Lake is fit, financially and otherwise, to proceed with the proposed construction.

With regard to the environmental impacts of the proposed rail line, the Commission's decision relied substantially upon the exhaustive EIS which had been prepared in compliance with NEPA, as described earlier. The Commission found that the EIS had adequately considered the various concerns expressed by the intervenors. The Commission also found that, although the EIS had concluded that the proposed line would have some unavoidable adverse impact upon the environment, such adverse impact would be relatively insignificant, particularly because Star Lake would be required to mitigate that impact as a condition of its construction authority. Moreover, the Commission noted that the EIS concluded there would be certain

"positive impacts upon the region beyond the actual development of coal reserves" including, "increased employment opportunities and enhanced income." The Commission also found that such "economic benefits to the local Indian population would help to offset potential negative impacts" and that the proposed rail route was "clearly superior" to alternative proposed routes which the EIS rejected on grounds of more serious environmental consequences.

In consideration of all these factors, the Commission concluded that the benefits stemming from the proposed action outweigh negative consequences and therefore held that the environmental impact of the proposed line did not warrant denial of Star Lake's application.

The Commission also addressed, and rejected, a series of claims made by DNA-People's Legal Services, Inc., on behalf of its Navajo clients, as to Star Lake's financial "fitness." The Commission found although the proposed construction necessarily entailed some measure of financial risk, these facts did not render Star Lake "unfit." In support of its conclusion, the Commission noted that Star Lake's parent corporation, The Atchison, Topeka and Santa Fe Railway Company, would be operating the line and had agreed to assume financial risk in connection with such operation. The Commission also relied on evidence of record demonstrating that coal production along the line would probably increase over time, and that operation of

the railroad would be sustained by the resulting coal traffic.
In conclusion, the Commission granted Star Lake authority to construct the proposed line or, in other words, granted a Certificate of Public Convenience and Necessity.

Following issuance of the Commission's March 23, 1981, decision and order approving Star Lake's construction application, DNA-People's Legal Services filed a Petition for Review in the U.S. Court of Appeals for the District of Columbia Circuit and also filed an administrative Petition to Reopen and for Stay with the Interstate Commerce Commission. DNA supported this request for relief with essentially the same arguments it had advanced previously in opposition to Star Lake's application plus various technical objections to the Commission's March 23, 1981, order. The Continental Divide Trail Society also filed a Petition for Reopening and for Stay with the Commission on the grounds that the Environmental Impact Statement, upon which the Commission relied in its decision, did not adequately consider potential environmental consequences on the proposed Continental Divide National Scenic Trail and did not adequately consider possible alternative routes for the proposed railroad line.

By order served July 8, 1981, the Commission denied the Petition to Reopen and for Stay filed by DNA-People's Legal Services finding that the arguments set forth in that petition had either been addressed in the Commission's March 23, 1981,

decision or were otherwise without merit. The Commission concluded that DNA had failed to demonstrate material error, new evidence or substantially changed circumstances that would warrant reopening of its order. However, the Commission granted the Motion for Reopening filed by the Trail Society, finding "that the rail line could adversely affect an important National recreational resource." Accordingly, the Commission reopened the proceeding for supplementation of the record to permit it "to analyze adequately arguments raised by the Trail Society and the likely impact of the rail construction on the Trail and to consider any appropriate measures which could be taken to mitigate the adverse impacts of construction."

In conformity with the Commission's order granting the Trail Society's Petition to Reopen, the Commission's Section of Energy and Environment prepared a Supplement to the Environmental Impact Statement. The Supplemental Environmental Impact Statement was served on October 26, 1981, and addressed potential impacts on the proposed Continental Divide National Scenic Trail of the railroad construction and of two alternative routes advanced by the Trail Society. The Supplemental EIS also recommended measures that could be taken to mitigate potential adverse impacts of construction. Comments on the Supplemental EIS were filed by Star Lake and Santa Fe, the Trail Society, DNA-People's Legal Services and the Energy and Minerals Department of the State of New Mexico.

Following consideration of the Supplemental EIS and the comments that had been received, the Commission again issued a decision and order on February 3, 1982. In that decision, the Commission concluded the construction of the railroad line as originally proposed would not have a significant adverse impact on the proposed Continental Divide National Scenic Trail and that the alternatives proposed by the Trail Society were not "environmentally superior" to the proposed route. Accordingly, the Commission reissued the Certificate of Public Convenience and Necessity on the condition that Star Lake would consent, if necessary, to the trail crossing the railroad line and that it would take certain safety measures at any such crossings.

On February 8, 1982, DNA-People's Legal Services again filed with the Commission a Petition for Stay of the Certificate of Public Convenience and Necessity pending judicial review by the District of Columbia Circuit Court of Appeals. In its petition DNA reiterated the points which had been made in its original request to intervene in May of 1980 and in its April, 1981, petitions to the Court of Appeals and the Interstate Commerce Commission for review. On March 19, 1982, almost a full year after the original Certificate of Public Convenience and Necessity was issued, the Commission issued yet another order, this time denying the DNA petition to stay the effectiveness of the Certificate of Public Convenience and Necessity which was issued to Star Lake on February 3,

1982, and reaffirming its reasons for denying the Navajos' petition and for granting Star Lake authority to construct.

In response to that denial, the DNA-People's Legal Services, on behalf of its Navajo clients, on March 31, 1982, filed a motion asking the D.C. Court of Appeals to stay the effectiveness of the Commission's Certificate of Public Convenience and Necessity pending a review of the Commission's entire decision. The Commission immediately opposed the Motion to Stay and Star Lake and Santa Fe moved to intervene on behalf of the Interstate Commerce Commission as defendants and also filed briefs in opposition to DNA's Motion for Stay. On June 1, 1982, the D.C. Court of Appeals denied DNA's Motion for a stay pending review of the ICC order by that court. A hearing on the appropriateness of the ICC's order now has been scheduled for October 18, 1982, before the D.C. Court of Appeals. Thus, despite the filing of Star Lake's original application in 1976, the ICC's order authorizing construction of Star Lake Railroad was not received until February 3, 1982, and is still under challenge by the Navajo clients of DNA-People's Legal Services. Although the matter will be heard by the D.C. Court of Appeals on October 18, 1982, it is impossible to predict when a decision will be issued after the hearing.

After the ICC finally issued the Certificate of Public Convenience and Necessity in February, 1982, and reaffirmed

that decision in March, 1982, Star Lake immediately prepared to acquire the final five miles of right-of-way across Indian allotment lands needed for the railroad. All other right-of-way in the phase I segment of the Star Lake line has been acquired but Star Lake has been stymied in its efforts over the past three years to negotiate a settlement with the allottees for right-of-way across these miles. Therefore, on April 16, 1982, Star Lake filed a condemnation action in Federal District Court in Albuquerque to acquire these final five miles of right-of-way. At the time of filing the Petition for Condemnation, Star Lake applied for a court order granting immediate possession of the property being condemned pursuant to the provisions of New Mexico state law which authorize immediate possession if the property is sought for a public use and immediate possession is necessary.

It was our expectation that immediate possession would be granted without delay by the New Mexico Federal District Court since Star Lake had received a Certificate of Public Convenience and Necessity from the ICC and since a higher court, the D.C. Court of Appeals, had refused to stay the effectiveness of such certificate. However, on May 5, 1982, DNA-People's Legal Services filed a motion in the New Mexico Federal District Court to stay Star Lake's condemnation proceedings pending the outcome of the hearing in the D.C. Court of Appeals on the appropriateness of the ICC's issuance

of a Certificate of Public Convenience and Necessity to Star Lake.

Star Lake and the Santa Fe opposed the DNA-People's Legal Services' motion to stay the condemnation proceedings, however, on July 1, 1982, the Federal District Court in New Mexico did grant the DNA's request on behalf of its Navajo clients for a stay of the condemnation proceedings pending a decision by the D.C. Court of Appeals. Star Lake and Santa Fe have filed a motion requesting the District Court to reconsider its decision. However, if the Federal District Court in New Mexico does not grant our motion, we will be delayed in initiating construction until a decision is rendered by the D.C. Court of Appeals after the hearing on October 18, 1982, in Washington.

We have been dismayed by the seemingly incessant obstacles and delays which have prevented initiating construction of the Star Lake line. We feel fairly confident that the D.C. Court of Appeals will uphold the ICC's Certificate of Public Convenience and Necessity after hearing the matter at the trial scheduled for October 18, 1982, although as I already mentioned, it is impossible to predict when a decision will be issued in that case. If the D.C. Court of Appeals' decision is favorable, we will ask Judge Burciaga to lift the stay in the condemnation proceedings here in Federal District Court so as to permit Star Lake immediate entry to the property as allowed under New Mexico law. Once

Star Lake has a right of entry to the property construction may begin.

No other obstacles stand in our way. Negotiations on the financing of the first phase of the Star Lake line were completed in May of this year when the SLR Limited Partnership was formed to effect construction of the line by providing necessary financing. About forty million dollars has been slated for construction of the first segment of the Star Lake line. Upon construction of that segment, Star Lake Railroad Company will lease the completed track from the SLR Limited Partnership and Santa Fe Railway will conduct rail operations over the line. Currently we are having discussions with potential coal shippers who could utilize the Star Lake Railroad north of the first segment. Once the first segment of the line is completed, we will be in a position to accelerate completion of additional segments to meet the demonstrated needs of shippers in that area.

With respect to state funding proposals, from the outset of this project we have developed financing in the private sector. To date, we have invested approximately five million dollars in the Star Lake Railroad project and as I said before another forty million dollar investment by the Limited Partnership financing phase I of Star Lake Railroad is committed. It is our firm belief that private sector financing arrangements are the best means of financing railroad

construction. We haven't had experience with alternative means of railroad funding such as a state transportation authority or state revenue bond funding, so it would not be logical to reject these ideas out of hand. However, as I have attempted to describe in some detail, although the Star Lake project has met certain delays and obstacles, none of these delays stemmed from inability to finance the project from private sources. We believe private sector financing of such construction is the best way to meet the goals of the state of New Mexico and the energy needs of the nation.

You have asked for our recommendations as to changes in the provisions of Senate Bills 103 and 104 which were introduced last session. In light of our agreement with the Limited Partnership and existing five million dollar investment, it is difficult to recommend appropriate changes which would make state rail funding legislation consistent with the goals and existing obligations of Santa Fe. As you may know, the Limited Partnership agreement was entered into subsequent to the end of the last legislative session. During that session, an approach was considered which would have provided for investment of severance tax permanent fund monies in securities issued to finance construction of an energy resources transportation system. However, we were definitely reluctant about that, and I am delighted we have successfully arranged private funding for phase I.

It is and has been Santa Fe's intention to construct the Star Lake Railroad on a schedule consistent with the needs of shippers to move coal from the San Juan Basin deposits. We have attempted to work with coal interests to be served by the Star Lake Railroad to develop a means of sharing in the risks involved through mutual participation in private financing. Santa Fe, historically, has been committed to the proposition that private rather than governmentally supported financing is in the best interest of the company and the economy as a whole.

Nevertheless, Santa Fe is very appreciative of the efforts of New Mexico officials to develop legislation which might be helpful in providing financial support for the Star Lake project. There are significant risks involved in constructing the railroad to points where the extent of tangible demand for transportation has not yet been fully demonstrated, and we will certainly undertake a thorough analysis of any proposals by which the State of New Mexico might assist in financing construction of the railroad.

In conclusion, we want to emphasize that there has been no delay in construction of the proposed line in anticipation of state funding. This is evident from our investments to date and from our commitment in entering the SLR Limited Partnership financing arrangement. To the extent legal obstacles remain before initiation of the construction of the line can begin, we have done and are continuing to do everything possible to

expedite a favorable resolution. However, those matters are now substantially out of our hands and require action by the Circuit Court of Appeals in Washington, D.C. and by the Federal District Court in Albuquerque, which actions we hope will be favorable. Under our current timetable, we anticipate that if construction of the line can begin in early spring, 1983, it will take approximately seven to eight months from commencement of construction until completion of the first phase of the line. If construction does not begin in early spring and the construction period extends over the winter months, then it will be extended approximately three more months to a total of approximately ten or eleven months.

We are committed to the Star Lake project. We firmly believe that our railroad expertise and experience and the private sector financing which we have secured, and believe can be developed for additional segments, afford the best means for the state of New Mexico to realize the economic benefits of state coal development.

Thank you.

John C. Davis

STATEMENT BY ARCH MINERALS CORPORATION

AUGUST 30, 1982

SAN JUAN BASIN COAL AND TRANSPORTATION

BY

ROBERT F. McCALLUM

Exhibit #7

ARCH MINERALS CORPORATION IS PLEASED TO HAVE THIS OPPORTUNITY TO PRESENT ITS VIEW ON THE PROBLEMS OF DEVELOPMENT OF SAN JUAN BASIN COAL. WE THANK THE COMMITTEE FOR THE INVITATION AND ARE ENCOURAGED TO SEE THE STATE PLAYING A MORE ACTIVE ROLE IN THE DEVELOPMENT OF ITS COAL RESERVES.

ARCH MINERALS CORPORATION IS A SURFACE MINING COAL COMPANY HEADQUARTERED IN ST. LOUIS, MISSOURI. IN THE THIRTEEN YEARS OF OUR OPERATIONS WE HAVE BECOME ONE OF THE LARGEST SURFACE MINING COAL COMPANIES IN THE UNITED STATES, MINING APPROXIMATELY TEN MILLION TONS IN 1981. ARCH MINERAL OPERATES SIX MINES IN THREE STATES: THREE IN THE HANNA BASIN OF WYOMING, TWO IN SOUTHERN ILLINOIS AND ONE IN NORTHERN ALABAMA. ARCH MINERAL HAS HELD INTERESTS IN NEW MEXICO SINCE 1972 WHEN WE SECURED A 51% INTEREST IN SEVEN PREFERENCE RIGHT LEASE APPLICATIONS IN THE SAN JUAN BASIN. THESE PRLA'S REPRESENT APPROXIMATELY 22,000 ACRES OF FEDERAL LAND AND SOME 275 MILLION TONS OF RESERVES. THIS DECADE OF FRUSTRATION IS HOPEFULLY NOW OVER BECAUSE OF THE EFFORTS OVER LAST FEW YEARS OF THE BUREAU OF LAND MANAGEMENT TO GET THE LEASING PROGRAM BACK ON TRACK. AFTER THE ISSUANCE OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT ON THE REGION NEXT JUNE WE HOPE TO FINALLY HAVE LEASES IN HAND TO DEMONSTRATE TO THE UTILITIES OF THE WESTERN UNITED STATES AND OTHER CUSTOMERS THAT WE WILL IN FACT BE A VIABLE PRODUCER OF SAN JUAN BASIN COAL.

WE ARE PRESENTLY AT AN IMPORTANT JUNCTURE WITH REGARDS TO MARKETING OUR NEW MEXICO COAL RESERVES. IT IS NO GREAT SECRET THAT SAN JUAN BASIN COAL IS AND WILL BE COMPETITIVE IN OUR NEIGHBORING STATES OF ARIZONA AND TEXAS AS WELL AS HERE IN OUR OWN STATE. HOWEVER, THE UTILITIES IN THESE STATES ARE NOW PLANNING FOR THEIR FUTURE. JUST AS YOU GENTLEMEN HAVE SEEN FIT TO PLAN FOR THE FUTURE OF NEW MEXICO BY BEING HERE TODAY, PLANNING IS NOW AN EVEN MORE IMPORTANT TASK FOR UTILITIES BECAUSE OF THE HIGH COST OF OIL AND GAS AND THE DIFFICULTY AND ACCURACY OF FORECASTING LOAD GROWTH. SOME UTILITIES ARE NOW PLANNING FOR EXPANSION OF THEIR SYSTEMS INTO THE 1990'S. THESE UTILITIES ARE PRESENTLY LOOKING TO SIGN LONG TERM CONTRACTS FOR THEIR FUEL SUPPLIES.

ONE OF THE GREATEST OBSTACLES TO THE DEVELOPMENT OF SAN JUAN BASIN COAL IS THE ABSENCE OF A VIABLE TRANSPORT SYSTEM. RAIL, TRUCK AND SLURRY PIPELINES ALL MAY HAVE A ROLE TO PLAY IN DEVELOPING THESE RESERVES. THE RAILROAD IS CLEARLY THE MOST IMPORTANT FROM OUR PERSPECTIVE. WE SUPPORT THIS COMMITTEE'S PRESENT EFFORT TO SOLVE THIS PROBLEM IN HOPES THAT THE SITUATION CAN BE RESOLVED IN TIME TO MEET THE CONTINUING PLANNING CYCLES WHICH WESTERN UTILITIES ARE CURRENTLY ENGAGED IN. IT IS IMPORTANT TO POINT OUT THAT THERE IS SOME MOMENTUM IN OUR FAVOR WITH RESPECT TO THE AWARDING OF A CONTRACT BY TUCSON ELECTRIC COMPANY TO SANTA FE MINING INC. THE DEVELOPMENT OF THE LEE RANCH AND ITS ASSOCIATED RAIL LINES GIVES THE NEW MEXICO COAL INDUSTRY, ESPECIALLY THE FRUITLAND FORMATION COMP-

ANIES, MUCH INERTIA. SANTA FE'S MINING EFFORTS AND SUCCESSES
DEMONSTRATE THAT SAN JUAN BASIN COAL IS INDEED MARKETABLE

AT THIS TIME I WOULD LIKE TO CAUTION THE COMMITTEE AND ALL PRESENT HERE TODAY THAT IN ORDER FOR SAN JUAN BASIN COAL TO BE COMPETITIVE WITH POWDER RIVER BASIN COAL, WHICH IS ALREADY GOING INTO THE TEXAS UTILITY MARKET, THE BASIN PRODUCERS WILL NOT ONLY NEED A RAILROAD BUT ALSO COMPETITIVE FREIGHT RATES. ARCH MINERAL KNOWS WE CAN COMPETE WITH POWDER RIVER BASIN COAL. OUR PRODUCT IS HIGHER IN BTU AND LOWER IN MOISTURE BUT WE NEED A COMPETITIVE FREIGHT RATE. HOWEVER, BECAUSE IT IS A HIGHER ASH COAL, IT MAY ULTIMATELY REQUIRE BENEFICATION AND ANY METHOD USED TO INCREASE THE QUALITY OF THIS COAL WILL INCREASE ITS COST. THEREFORE, THE FUNCTION OF THE RAILROAD AS A COMPETITIVE PARTNER WITH THE COAL COMPANIES IS EVEN MORE IMPORTANT.

IN ADDITION TO THE PROBLEM OF TRANSPORTATION, NEW MEXICO COAL DEVELOPMENT IS FURTHER CLOUDED BY THE NAVAJO - HOPI LAND DISPUTE, ARCHEOLOGICAL AND PALEONTOLOGICAL RESOURCE QUESTIONS, AIR QUALITY DEGRADATION AND RESPECT FOR TRADITIONAL CULTURES. THESE QUESTIONS NEED TO BE ADDRESSED AND ANSWERED. WITHOUT THE PROPER ATTENTION PAID TO ALL OF THE FACTORS OF THE PHYSICAL AND HUMAN ENVIRONMENT WE WILL END UP SPENDING OUR LIMITED RESOURCES ON LITIGATION RATHER THAN COAL MINING. AND AT GREAT COST TO OUR ENVIRONMENT. DELAYS COST JOBS AND REVENUES TO THE STATE AND FEDERAL GOVERNMENTS. WE BELIEVE THAT

THE PIECES OF THIS BIG JIGSAW CAN BE ASSEMBLED WITH MUCH BENEFIT TO THE PEOPLE AND LITTLE DAMAGE TO THE ENVIRONMENT. THE POINT BEING THAT THE SANTA FE RAILROAD IS NOT THE LIMITING FACTOR IN THE DEVELOPMENT OF THE SAN JUAN BASIN. OF COURSE THEY WILL PLAY A LARGE ROLE BUT ONE THAT WE DON'T FEEL TO BE RESTRICTIVE. WE DO NOT EXPECT THE SANTA FE RAILROAD TO BUILD THE STAR LAKE BISTI RAILROAD UNLESS COAL COMPANIES HAVE FIRM CONTRACTUAL COMMITMENTS. NEW MEXICO IS BLESSED WITH A TREMENDOUS AMOUNT OF COAL BUT IS A COAL WITH MARGINAL QUALITY TO COMPETE ANYWHERE BUT THE TRI-STATE AREA OF ARIZONA, NEW MEXICO AND TEXAS. THE EXPORT MARKET HAS BEEN VASTLY OVERRATED AND WE BELIEVE THE ONLY WAY SAN JUAN BASIN COAL COULD BECOME VIABLE AS AN EXPORT COMMODITY IS AS A BENEFICIATED PRODUCT SUCH AS A SYNTHETIC FUEL. OUR COAL COULD BE CONVERTED INTO A SYNTHETIC FUEL WITHIN OUR BORDERS AND PIPED THROUGH EXISTING LINES TO TEXAS OR CALIFORNIA. HOWEVER, SUCH A DEVELOPMENT IS NOT LIKELY WHILE NATURAL GAS AND OIL PRICES REMAIN AT THEIR PRESENT LEVELS. THUS, OUR PRIMARY MARKET OBJECTIVES ARE TO MOVE BISTI COAL TO THE TRADITIONAL STEAM ELECTRIC MARKET AND ONLY THEN WILL WE SEE SUBSEQUENT MARKET DEVELOPMENTS OF SYNFUELS FORTHCOMING. THE REASON FOR THIS IS THE CAPITAL COST REQUIREMENTS FOR NEW COAL MINES. THEY ARE SO HIGH THAT THE ECONOMY OF SCALE PROVIDED FOR BY LARGE LONG TERM UTILITY CONTRACTS ARE THE PRIMARY OBJECTIVE FOR MOVING TOWARD SIGNIFICANT COAL DEVELOPMENT IN SAN JUAN COUNTY.

WE BELIEVE THAT FOR THE FRUITLAND FORMATION RESERVES TO BE MARKETABLE THE FOLLOWING MUST HAPPEN:

1. PRLA'S MUST BE CONVERTED AND DEVELOPMENT ALLOWED TO BEGIN.
2. THE ENTIRE STAR LAKE BISTI RAILROAD MUST BE CONSTRUCTED AND COMPETITIVE FREIGHT RATES PROVIDED.
3. ELECTRICAL AND INDUSTRIAL DEMAND MUST IMPROVE.
- 7-0-d → 4. CAPITAL NEEDS TO BE MADE AVAILABLE TO UTILITIES SO THAT CONVERSION OF OIL AND GAS FIRED GENERATORS TO COAL CAN TAKE PLACE.

WE ARE OPTIMISTIC ABOUT SAN JUAN BASIN COAL DEVELOPMENT. ALL OF NEW MEXICO'S COAL RESERVES MAY NEVER BE DEVELOPED BUT WE CAN DEVELOP THE BEST OF THESE RESERVES FIRST WITH THE COOPERATION OF THE STATE AND FEDERAL GOVERNMENTS AND THE SANTA FE RAILROAD. DEVELOPED BY THE END OF THIS DECADE EVEN.

GENTLEMEN, WE APPLAUD YOUR EFFORTS IN THESE IMPORTANT MATTERS. WE OFFER OUR SUPPORT FREELY AND LOOK FORWARD TO A GOOD RELATIONSHIP WITH YOU IN THE FUTURE.

THANK YOU.

Russell D. Hulse,
Vice President of Resources Planning
Arizona Public Service Company
P O Box 21666
Phoenix, Arizona 85036
(411 North Central Avenue)
Telephone: (602) 271-7900

Qualifications:

Mr. Hulse graduated from Iowa State in 1950 with a Bachelor of Science Degree in Electrical Engineering. After graduating, Mr. Hulse worked as an engineer for Consumers Power Company from 1950-1952.

He joined Arizona Public Service Company's Engineering Department in 1952. He has held a number of supervisory and managerial jobs in the engineering and construction areas including working on the Four Corners Power Plant and Transmission System and in a staff function on the Navajo Project. He has worked on the contractual relationship of a number of joint venture projects.

His present title is Vice President of Resources Planning and he is responsible for Power Contracts, System Planning, Fuel Supply and Water Resources. Additionally, he is Vice President and General Manager of two fuel related subsidiaries.

Mr. Hulse is past chairman of Western Energy Supply and Transmission (WEST) Management Committee and APS' representative on Western Systems Coordinating Council.

August 30, 1982

Exhibit #8

NEW MEXICO ENERGY RESOURCES TRANSPORTATION COMMITTEE

SANTA FE, NEW MEXICO

AUGUST 30, 1982

MY NAME IS RUSSELL D. HULSE, VICE PRESIDENT OF RESOURCES PLANNING FOR ARIZONA PUBLIC SERVICE COMPANY. IN THIS CAPACITY I AM RESPONSIBLE FOR FUEL SUPPLIES FOR ELECTRIC GENERATION FACILITIES, AS WELL AS PLANNING FOR FUTURE ELECTRIC GENERATION UNITS AND SYSTEMS. ARIZONA PUBLIC SERVICE IS AN INVESTOR-OWNED ELECTRIC AND GAS UTILITY WHICH PROVIDES ELECTRICITY TO APPROXIMATELY 450,000 CUSTOMERS WITHIN A 50,000 SQUARE-MILE AREA OF ARIZONA.

OUR CURRENT LONG-RANGE PLAN CALLS FOR AN ADDITION TO OUR CHOLLA ELECTRIC GENERATING STATION AT JOSEPH CITY, ARIZONA, OF 350 MW IN 1991. ADDITIONAL ELECTRIC GENERATING FACILITIES ARE PLANNED FOR OUR BOUSE, ARIZONA, SITE IN 1993, 1995 AND 1997. EACH OF THESE UNITS ARE DESIGNATED AT 350 MW. ALSO, EACH 350 MW UNIT REQUIRES APPROXIMATELY 1.1 MILLION TONS OF COAL PER YEAR. THEREFORE, APS HAS A CONTINUING NEED FOR ADDITIONAL COAL REQUIREMENTS THROUGH THE 1990'S.

WE ARE CONTINUING TO LOOK AT THE POTENTIAL FOR FUTURE MINE-MOUTH PLANTS, OR ELECTRIC GENERATING FACILITIES AT POTENTIAL MINESITES. HOWEVER, LACK OF WATER, AIR QUALITY RESTRICTIONS, AND THE HIGH COST OF TRANSMISSION LINES INTO OUR

LOAD CENTER MAKE THESE ALTERNATIVES LESS ATTRACTIVE. Obviously, railroad transportation of New Mexico coals would add flexibility to the decision-making process and would create more alternatives for the use of New Mexico coal.

For future coal-fired generation planned for California, Arizona, New Mexico, and for a large portion of Texas, the San Juan Basin coal has the advantage of being able to be moved the entire distance by only one carrier, that being the Santa Fe Railroad. Coal moved to this region from Colorado will probably require two carriers (Denver & Rio Grande Western and Santa Fe), while that from Utah will require two (Union Pacific & Santa Fe) and possibly a third carrier (D&RGW). A single carrier is economically preferred in negotiating for rail transportation.

The San Juan Basin coal, from the standpoint of delivery to Cholla or Bouse, is located considerably closer than the Raton area or mid-Utah area coals. San Juan Basin is approximately 550 miles distant from Bouse, while these next two likely sources of coal are some 800 to 850 miles distant. The San Juan Basin coal is also closer to our load center than any Colorado coal. Therefore, we will continue to have an interest in San Juan Basin coal.

An alternative to obtaining contract fuels for electric generating stations is the development of our own

FUEL RESOURCES. APS CONTINUES TO HAVE INTEREST IN COAL LANDS THAT MAY BECOME AVAILABLE FOR ACQUISITION. OUR INTEREST IN A COAL PROPERTY WILL BE CONSIDERABLY HEIGHTENED IF A RAILROAD IS CONSTRUCTED IN CLOSE PROXIMITY TO THAT PROPERTY. THE TIMING IN THE DEVELOPMENT OF ANY RESOURCE PROPERTY IS REDUCED WHEN VIABLE TRANSPORTATION INTO THE PROPERTY IS DEVELOPED AHEAD OF TIME. ALL THE MAJOR COAL FIELDS OF THE WESTERN U.S., EXCEPT THE SAN JUAN BASIN, HAS RAILROAD TRANSPORTATION AVAILABILITY. I BELIEVE THE KEY TO THE DEVELOPMENT OF SAN JUAN BASIN COALS IS THE EARLY DEVELOPMENT OF GOOD RAILROAD TRANSPORTATION.

RDH:B

STATEMENT OF DARRELL E. SMITH, MANAGER
FUELS DEPARTMENT, SALT RIVER PROJECT

MR. CHAIRMAN.

MEMBERS OF THE JOINT COMMITTEE.

MY NAME IS DARRELL E. SMITH. I AM MANAGER OF THE FUELS DEPARTMENT FOR SALT RIVER PROJECT. MY BUSINESS MAILING ADDRESS IS: POST OFFICE BOX 1980, PHOENIX, ARIZONA, 85001.

SALT RIVER PROJECT, NAMED FOR THE MAJOR RIVER THAT SUPPLIES WATER TO THE PHOENIX METROPOLITAN AREA, HAS PLAYED A LEADING ROLE IN THE GROWTH OF THE SALT RIVER VALLEY, PROVIDING WATER AND POWER SERVICES TO AREA RESIDENTS. THE PROJECT COMPRISES TWO ORGANIZATIONS--THE SALT RIVER VALLEY WATER USER'S ASSOCIATION AND THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.

THE AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, A POLITICAL SUBDIVISION OF ARIZONA, OPERATES UNDER CONTRACTS WITH THE UNITED STATES AND PROVIDES ELECTRICITY TO RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND AGRICULTURAL POWER USERS IN A 2,900 SQUARE MILE SERVICE AREA IN PARTS OF MARICOPA, GILA, AND PENAL COUNTIES IN ARIZONA.

Exhibit #9

SALT RIVER PROJECT SERVES NEARLY 350,000 ELECTRIC CUSTOMERS AND EXPERIENCED A PEAK LOAD IN 1982 FROM PROJECT CUSTOMERS OF 2,266,000 KW.

SALT RIVER PROJECT IS FUNDAMENTALLY A COAL-FIRED UTILITY SYSTEM. IN 1982, 79.4% OF THE ELECTRICITY USED BY SALT RIVER PROJECT CUSTOMERS WAS PRODUCED FROM COAL.

CORONADO GENERATING STATION, LOCATED NEAR ST. JOHNS, ARIZONA, IS A KEY ELEMENT IN SALT RIVER PROJECT'S COAL-FIRED GENERATING CAPACITY SYSTEM. THIS STATION CURRENTLY HAS TWO GENERATING UNITS ON-LINE, WITH LOW LEVEL CONSTRUCTION CONTINUING ON A THIRD UNIT. CURRENT PROJECTIONS INDICATE SALT RIVER PROJECT CUSTOMERS WILL NEED POWER FROM UNIT #3 OF THE CORONADO STATION IN 1991. CONSTRUCTION SCHEDULES FOR THIS ADDITIONAL UNIT WILL BE ACCELERATED OR DELAYED BASED UPON CUSTOMER NEEDS.

COAL PURCHASES FOR CORONADO GENERATING STATION IN 1982 WERE APPROXIMATELY 2 MILLION TONS. OUR FORECASTS INDICATE THAT NEARLY 2.3 MILLION TONS OF COAL WILL BE PURCHASED FOR CORONADO STATION EACH YEAR UNTIL UNIT #3 GOES INTO COMMERCIAL SERVICE. AT THAT TIME, ANNUAL COAL PURCHASES WILL INCREASE TO APPROXIMATELY 3.6 MILLION TONS ANNUALLY.

SALT RIVER PROJECT CURRENTLY HAS LONG-TERM COAL SUPPLY AGREEMENTS WITH KAISER STEEL'S YORK CANYON MINE NEAR RATON,

AND WITH THE PITTSBURGH AND MIDWAY COAL MINING COMPANY'S MCKINLEY MINE NEAR GALLUP, FOR THE SUPPLY OF APPROXIMATELY 1.5 MILLION TONS OF THE CORONADO STATION ANNUAL REQUIREMENTS. WE ARE A MAJOR PURCHASER OF NEW MEXICO COAL. CORONADO STATION IS DESIGNED SPECIFICALLY TO BURN SAN JUAN BASIN COAL, AND IT IS OUR GOAL TO SEEK LONG-TERM FUEL SUPPLY COMMITMENTS FOR CORONADO STATION FROM SAN JUAN BASIN SUPPLIERS. LET ME EMPHASIZE THAT, WHILE OUR GOAL IS TO UTILIZE SAN JUAN BASIN COAL AT CORONADO GENERATING STATION. WE CANNOT CONSIDER ANY COAL SUPPLY WHICH IS NOT GUARANTEED BY A VIABLE TRANSPORTATION AND DELIVERY SYSTEM. THIS CONSIDERATION, ALONG WITH COMPETITIVE PRICING OF DELIVERED FUEL, ARE AMONG THE MOST IMPORTANT CRITERIA WE CONSIDER IN FUEL PURCHASING.

IF OUR GOAL FOR UTILIZATION OF SAN JUAN BASIN COAL AT CORONADO STATION IS TO BE MET, CONSTRUCTION OF A RELIABLE TRANSPORTATION SYSTEM TO BRING THE COAL RESOURCES OF THE SAN JUAN BASIN TO CORONADO GENERATING STATION MUST BE ACCOMPLISHED. FROM THIS PERSPECTIVE, SALT RIVER PROJECT IS IN SUPPORT OF SENATE BILLS 89 AND 90. WE URGE ADOPTION OF THE LEGISLATION SO THAT A VIABLE ALTERNATIVE TO PRIVATE SECTOR CONSTRUCTION OF THE SAN JUAN BASIN TRANSPORTATION SYSTEM WILL EXIST IN THE EVENT PRIVATE SECTOR INITIATIVE DOES NOT MATERIALIZE.

THANK YOU FOR YOUR CONSIDERATION.

IN SUPPORT OF SENATE BILLS 89 & 90

Senate Bills 89 and 90 are intended to create a state authority responsible for assessing energy transportation project needs, and working toward their implementation, if necessary. In this context, the following is intended to demonstrate support for the bills by outlining one specific area of interest, the San Juan Basin (SJB) coal fields, by assessing the potential for SJB coal development, the basic economic considerations of development, general transportation issues and the need for timely action by the legislature.

MARKET ANALYSIS

The New Mexico Energy Research and Development Institute recently commissioned an evaluation of New Mexico's coal marketing potential based on the development of in-state coals. These were completed and are now being printed for final release. The studies were conducted by Data Resources, Inc. (DRI) and Temple, Barber and Sloane (TBS), both of Lexington, Massachusetts.

DRI STUDY

DRI conducted an in-depth study of New Mexico's future coal outlook based on total energy demand in the Southwest, coal demand by region and sector, demand for New Mexico coals specifically, a market appraisal of where New Mexico coals could be sold and in what time-frames, and a coal supply analysis.

Exhibit # 10

ored by Robert Jackson
Sunbelt Mining Company
OVER) S/100T (30TH 5107

DRI's basic findings are that New Mexico coal production will increase from 1982's 19 million tons per year (mmtpy) to 29.5 mmtpy in 1990 and 73.4 mmtpy in 2000. Of these totals, 90% will originate in the SJB area. In addition, DRI estimates the primary market area for New Mexico coals are in New Mexico and Arizona, with secondary market potential in Texas and California; penetration of New Mexico coals into these secondary markets is dependent on increased levels of demand, and competition both from other coal producing regions (primarily the Powder River Basin (PRB) in Wyoming), and competition for freight business between railroads. According to DRI, one of the prime reasons for Texas' interest in New Mexico coal has been the monopoly of the Burlington Northern Railroad over transportation of PRB coals.

In Table I-26, DRI states that coal usage will double in the primary market area by the year 2000, with the greatest growth in the decade of the 1990's. Coal usage will quadruple in the secondary market area over the same period, but SJB coals face stiff competition in these areas. In the primary market area, coal demand for electric utilities and industrial use will increase from 1981's 24.9 mmtpy to 29.8 mmtpy in 1990 to 52.6 mmtpy in 2000. In the secondary market, consumption will increase from 49.5 mmtpy in 1981 to 79.8 mmtpy in 1990 to 192.8 mmtpy in 2000 with the electric utility industry accounting for approximately 90% of this total.

Relating this demand to production, DRI finds that, as a base case, production will increase in the New Mexico portion of the SJB from 17.5 mmtpy in 1981 to 28.4 mmtpy in 1990 to 68.9 mmtpy in 2000 (Table II-6),

5 HOUR BOTH SIDES (over)

an increase over 1981 levels of 10.9 mmtpy in 1990 and 51.4 mmtpy in 2000.

DRI also evaluates the potential for New Mexico coal sales in 1990 and 2000 against competition between other coal producing regions, primarily the SJB, Raton Basin, PRB, Green River Basin in northwest Colorado, and the Central Rocky Mountain region of Colorado. The analysis includes projected coal prices (FOB mine) and coal freight rates. In Tables II-13(b) and 14(b), DRI finds that, on a delivered cents/million Btu basis, SJB coals in 1990 have a delivered-cost advantage in New Mexico, Arizona, California and West Texas, generally, and specifically to St. Johns, Phoenix, Tucson, El Paso, San Antonio and Dallas. In 2000, SJB coals remain less expensive or comparatively equal in price with coals from other regions to the same destinations.

DRI states that marketing opportunities for SJB coals are best represented by "new" consumers as opposed to existing ones, because existing consumers are hesitant to change coal suppliers or regions once long-term relationships are established. This is one area of disagreement with the study results, as market opportunities appear to be substantially greater than currently recognized. DRI alluded to the rationale underlying this contention by acknowledging the desire of southwestern consumers to break the existing railroad monopoly on coal transportation from the PRB. All things being equal (price, quality, relative coal characteristics), southwestern consumers, particularly in west and south Texas, may be willing to change coal suppliers in order to stimulate competition among coal suppliers and rail carriers.

DRI's study recognizes that coal demand is very reliant on electric utility expansion plans. Therefore, their forecasts were projected based on a reduced level of demand for electrical energy, reflecting recent trends nationwide. DRI also projects risks to their base case coal production estimates, based on: lower electric load growth in California; delaying utility expansion plans in Arizona, New Mexico and Texas, lower industrial usage, postponement of synfuels development, and lack of market for overseas steam coal exports. Even with these major risks factored into their projections, DRI still projects an increase in New Mexico coal production by the year 2000 of 62.5 mmtpy, a statewide increase of 43.5 mmtpy over current levels (Table VIII-I). Again, since DRI forecasts that 90% of all new coal production is expected to come from SJB coals, this equates to a market for at least 39 mmtpy of new production from the SJB by 2000.

TBS STUDY

The TBS study is a survey of current and projected marketing opportunities, as opposed to DRI's in-depth appraisal of supply and demand factors affecting coal development in New Mexico. The TBS study confirms DRI's primary and secondary market areas for New Mexico coals. Likewise, TBS supports DRI's contention that the best markets for SJB coals lie with those consumers currently using, or who would like to use, New Mexico coal. TBS's estimates for New Mexico coal production (Exhibit I) tend to confirm and support DRI's base case projections.

However, TBS makes a significant error by stating in the report summary that planned capacity from the Lee Ranch, La Plata and Ideal Basic Mines

can supply all anticipated demand for New Mexico coal through 1995. La Plata and Ideal Basic are not located on rail and have no opportunity to fill large market needs located away from the mine. La Plata production will be dedicated to the San Juan Generating Station (SJGS) and is designed to fill a long-term supply shortfall at SJGS's captive San Juan Mine. Ideal Basic production is designed to supply the fuel needs of its parent at the Ideal Basic Cement Plant in Albuquerque. Finally, Lee Ranch faces an uncertain future in terms of a difficult mining situation and, over the long-term, the need for in-fill federal reserves. The Lee Ranch property is composed of alternating sections of fee coal acquired via a railroad grant in the 1800's. Intervening sections in this "checkerboard" pattern are federally owned and currently unleased. Since federal law prohibits leasing of federal coal to a railroad or railroad affiliate, Lee Ranch is by no means assured of securing a contiguous mining situation, without which its ability to expand much beyond current expectations would be adversely affected.

TBS and DRI also fail to fully round out the potential market for New Mexico coals. For example, in their survey results, TBS does not include in their industrial use section at least five major cement plants consuming 1.25 mmtpy that are located in California. They also have overlooked two potential new generating plants proposed within the New Mexico market area; Southern California Edison's Ivanpah Project, a 1500 MWe, 5 mmtpy facility to be located in California near the Nevada border, and which is expected to be in-service in 1993, and a New Mexico project by El Paso Electric, scheduled for the 1990's, that could consume 1 mmtpy.

TBS does make a series of very to-the-point statements, however. In the summary, TBS states:

...The full development of the market for New Mexican coal may require assurances of adequate transportation, even though the transportation network may not be required until the 1990's.

In reference to the need for early involvement of coal suppliers hoping to contract with the electric utility industry for future coal sales, TBS states, on page I-9:

In general, coal-characteristic requirements are based on the boiler design, which is not generally finalized until a coal supplier has been determined. This points out the importance of working with utilities at the initial planning stages to ensure consideration of the coal being marketed. Utilities generally require detailed development plans, allocated reserves, and assured transportation.

...Almost all coal burned in electric utility powerplants is under long-term contract. Based on TBS's survey results, the average contract duration is approximately 20-25 years and ranges from 5 to 40 years.

...Powerplants tend to rely on a single contract for the majority of their coal supply. This again points out the importance of establishing a position with the utilities during the initial planning stages of the powerplant.

Thus, the major point brought out in the TBS survey is the critical nature of early involvement of coal suppliers with utility planners. In order to be effective, coal suppliers must be able to approach the marketplace with assurances of a suitable product, that is economically extractable and deliverable to the site. Utility decision-makers must be confident that fuel they would potentially contract for is, in fact, deliverable at agreed-to rates. TBS notes that, in order to provide these assurances, SJB coals require the certainty that the transportation link to markets does or will exist before they can be genuinely, seriously considered by major fuel consumers.

CAPITAL COSTS OF THE STAR LAKE RAILROAD AND COAL FREIGHT RATES

While the preceding establishes that a market exists for SJB coals that could utilize a railroad if it were in place, how does it relate to the existing Star Lake Railroad (SLRR) proposal? The DRI study involved a detailed assessment of freight rates for SJB coals based on the assumption that the SLRR is in-place. This assessment was used to determine the competitive position of SJB coals vs. other regions, particularly the PRB.

DRI's study results are embodied in Tables II-13(b) and 14(b), whereby SJB coals are shown to have a positive price differential within the region in 1990 and parity or better by 2000. This analysis includes consideration of freight rates, including capital costs (track, rights-of-way, earth work, culverts, etc.), and debt retirement expenses for the SLRR, operations, maintenance, depreciation expenses, investment tax credits, and profit motive, among others. DRI also documents the competitive nature of current freight rates for SJB as opposed to PRB shipments in Table II-2. DRI shows current rail rates from the PRB to Texas at \$28.59/ton while SJB coals moving to Texas are charged \$21.71/ton. Examples of current freight rates for various shippers, carriers and destinations are given in Attachment 1.

STATE FINANCING

The following pay-out/break-even analysis was developed to show the amortization schedule of state revenue bonds issued to finance construction of the SLRR, if such an investment was approved by the investment board authorized by Senate Bills 89 and 90.

For discussion purposes, it is assumed the state will finance construction of the entire 115 miles of the line proposed by the SLRR. This ignores the recent commitment by Santa Fe Mining to construct the first 24 miles of the SLRR to serve their Lee Ranch Mine. It also does not account for other potential financing arrangements such as a possible joint venture between the state and various mining operations that would be served by the SLRR. The 1982 estimated capital cost of the line with all facilities, as proposed by SLRR to the Bureau of Land Management and the Interstate Commerce Commission, is approximately \$1,163,400/mile or a total of \$133,791,000. The example assumes the bonds carry a 30-year term at 10% interest. The analysis ignores depreciation, investment tax credits, taxes, etc., as it is assumed the state will not be considered as a business entity under federal or state law. Further, a variable cost is included for track repair and maintenance. These inputs yield the following charges necessary to be recouped by the state over the 30-year life of the investment at various tonnages/year moving over the railroad.

TRACK PORTION OF TRANSPORTATION COST
(first year)

Tonnage (millions)	Fixed Cost ¹ (millions)	Variable Cost ² (Millions)	\$/Ton	\$/Ton-mile*
5	\$17.839	1.699	3.91	0.0391
10	"	2.064	1.99	0.0199
20	"	2.794	1.03	0.0103
25	"	3.159	0.84	0.0084
30	"	3.524	0.71	0.0071

*for 100 miles - maximum distance from Bisti-Baca Siding

¹ Annual debt expense = \$13,379,250, and principle retirement = \$4,459,750

² Includes track repair and maintenance at \$11,600/mil + \$0.00073/ton mile

Further information is given in Attachment 2. The amortization charge levied on shipments using the SLRR is not likely to significantly affect the delivered price of SJB coals within their primary or secondary market areas.

ECONOMIC POTENTIAL OF SJB DEVELOPMENT

The state of New Mexico has a significant vested interest in development of the SJB coal fields. Not only would development occur in an area that has been economically depressed by the collapse of the uranium industry and the nation-wide slowdown in oil and gas activity, but historically, the northwest quadrant has also been an area of chronic under-employment for the majority of its inhabitants. As mentioned earlier, the DRI study pinpoints a coal production level for the SJB, under the most pessimistic conditions, of at least 39 mmtpy of new production over existing levels.

The following is illustrative of the economic benefits from coal development that can accrue to the SJB region and, just as importantly, to the state as a whole. For every typical 10 mmtpy of coal production, assuming a \$20/ton sales price, the following estimated economic stimulus in 1982 dollars, will result:

- Initial capital investment @ \$25/ton of annual production = \$250,000,000 over a 3-4 year period.
- Assuming one-half of the total investment is spent in New Mexico, gross receipts and compensating taxes = \$4,375,000.
- Employment: Direct = 720; Indirect = 540.
- Wages: Direct = \$23,400,000/yr.; Indirect = \$8,100,000/yr.; Total = \$31,500,000/yr.

- Annual Mine Purchases (equipment, materials, supplies) = \$20,000,000/yr.
- Annual State Taxes (direct)*
 - Severance = \$9,100,000 (\$0.91/ton)
 - Resource excise = 1,312,500 (sales price - state & federal royalty x .0075%)
 - Conservation = 380,000 (sales price x .0019%)
 - Property = 2,800,000 (tangible and production)
 - Sales taxes = 350,000 (on mine purchases, assuming one-half are made in New Mexico)

\$13,942,500/year

* Any coal sold for in-state consumption would be subject to the gross receipts tax

- Annual royalties (assuming all federal coal, one-half to N.M.) = \$12,500,000/year
- Other taxes (based on employee's earnings) = \$1,200,000/yr.
- Turnover - Assuming each dollar spent in New Mexico turns over approximately five times before leaving the state, the economic impacts are magnified considerably. These benefits have not been accounted for in the above
- Recap
 - Initial investment = \$250,000,000
 - Annual state taxes (direct) = \$13,942,500
 - Payroll-generated taxes = \$1,200,000
 - Annual state royalties = \$12,500,000
 - Employment (direct & indirect) 1,260
 - Annual payroll (direct & indirect) = \$31,500,000

CONCLUSIONS

The foregoing has attempted to show that the type of investment mechanism for the state as proposed in SB's 89 and 90, is appropriate, using the SJB as an example. The SJB example provides one additional reason as to why an urgency exists in the need to create this financing mechanism.

The DRI and TBS studies confirm that a market exists for substantial quantities of SJB coal in the 1990's. Thus, although it appears that there is little need to act now, given that a railroad wouldn't be required to move coal until the 1990's, just the opposite is true. As highlighted by TBS, electric utilities planning to install new generating capacity are currently in the marketplace for fuel supplies. Hence, the need to be able to assure large coal consumers that SJB coals are viable as a 1990's fuel source exists right now. Southwestern Public Service Company provides a perfect example. They are currently preparing to negotiate for a firm fuel source for a new coal-fired plant intended to be built in Lubbock County, Texas in 1989, seven years prior to the first shipment of coal. This is a typical time-frame for the utility industry. Hence, any SJB coal that is to be delivered in the 1995 time-frame requires a firm fuel commitment by 1988, which is only five years away.

This "window of opportunity" was verified by Mr. John Davis, Senior Vice-President of the Santa Fe Railway, in a statement before the Interim Legislative Resources Transportation Committee in September 1982. In response to a question from Senator Jack Morgan, Mr. Davis stated that surface coals in the state need to be sold in the next three or four years, or there may not be markets for them at all. What Mr. Davis was alluding to are: 1) Coal supplies to the utility markets developing in the 1990's will be contracted for in the near future; 2) Once filled, the anticipated market for SJB coals would be greatly diminished until the next cycle of utility construction occurs. As this cycle is typically 20-25 years, the next large-scale opportunity may not

occur for 30-35 years from today, well into the next century. Further, advances or changes in electric generating technology or other factors may reduce or minimize the use of coal for generating purposes. If this "opportunity window" is missed, the state will have postponed indefinitely, for all practical purposes, major development of the SJB coal fields, and foregone the attendant economic benefits.

SB's 89 and 90 create an opportunity for the state to positively affect development of the SJB coal fields. The bills do not appropriate a significant amount of money, nor do they commit the state to fund or intercede in any project. It is important to stress that any project seeking financing from the state under the structure created by these bills must demonstrate before a five-member investment board, whose members are appointed by the governor, that a market exists that would support the project and that revenues would be generated in sufficient quantity to pay back the state's investment.

The primary benefit of the bills is their creation of the ability to respond, if necessary, in order to maximize the positive economic benefits to the state of potential energy development. They create a mechanism whereby the state can act to affect events of tremendous economic importance to the state, rather than to passively accept whatever occurs. In the single example of the SJB as described above, it is obvious that the state has a large vested interest in overseeing development of the basin. The best position the state can adopt is to be prepared to act as a catalyst to spur development of energy

transportation networks if the private sector fails to act in a timely manner.

ATTACHMENT 1
COAL TARIFF REPORT
First Quarter, 1983 Data

Source (Less than 1,000 miles)	Destination	Carrier	Receiver	Tons (000's)	Miles	\$/Ton	\$/Ton-Mile
Gallup, NM	Cochise, AZ	ATSF-SP	Az Elec. Power Coop. Apache Sta.	1,000	523	\$14.62	\$0.02795
Gallup, NM	Torona, CA	ATSF-SP	Kerr-McGee	375	749	22.29	0.02976
Acco, UT	Maopa, AZ	DRGW-UP	Nev. Power-Gardner Sta.	350	460	13.30	0.02891
Energy, CO	Adams, CO	DRGW	Pub. Svc. of Colo. Cherokee Sta.	1,950	211	4.87	0.02308
Gallup, NM	Navajo, AZ	ATSF	Salt River Project Coronado Sta.	900	114	4.25	0.03728
York Canyon, NM	Navajo, AZ	ATSF	Salt River Project Coronado Sta.	475	507	10.10	0.01992
Belle Ayr, WY	Amarillo, TX	BN-FWD	Southwestern Pub. Svc. Harrington Sta.	2,250	888	15.33	0.01726
(Greater than 1,000 miles)				1,043	493	\$12.11	\$0.02631
Cordero, WY	Smithers Lk, TX	BN-ATSF	Houston Light & Power Parrish Sta.	1,000	1,522	24.57	0.01614
Belle Ayr, WY	Ft. Gibson, OK	BN-MP	Okla. Gas & Elec. Muskogee Sta.	2,700	1,100	16.76	0.01524
Sharp, UT	Navajo, AZ	UP-ATSF	Salt River Project Coronado Sta.	462	1,124	20.28	0.01804
Belle Ayr, WY	Elmendorf, TX	BN-SP	San Antonio Pub. Svc. Board - Deely Sta.	2,700	1,652	26.42	0.01599
Average				1,716	1,350	\$22.01	\$0.01635

ATTACHMENT 2
STAR LAKE RAILROAD
Estimated Costs

• Capital Costs¹

\$907,000/mile Earthwork, bridges, culverts, track, etc.
23,000/mile Rights-of-way, land
 \$930,000/mile Total

Escalated to 1982 \$'s²
 = \$1,163,400/mile

• Repair and maintenance³

= \$11,600/mile + \$0.00073/ton-mile

• Assume full 115 mile capital requirement

= \$133,791,000

• Amortization Schedule - 30-year term, 10% interest

Capital Portion of SLRR
(first year)

Tonnage (millions)	Fixed Cost [*] (millions)	Variable Cost ^{**} (millions)	\$/Ton	\$/Ton-mile
5	\$17.839	\$1.699	3.91	0.0391
10	"	2.064	1.99	0.0199
20	"	2.794	1.03	0.0103
25	"	3.159	0.84	0.0084
30	"	3.524	0.71	0.0071

* Includes principal and interest. Does not include depreciation, investment tax credits, income taxes, etc.

** Includes repair and maintenance.

¹ Final Envir. Impact Statement, Bureau of Land Management, 1980.

² Assoc. of American Railroads (AAR), quarterly indices.

³ Comparative Coal Transportation Costs, Vol. II, Unit Trains, U.S. Bureau of Mines, 1980, escalated to 1982 \$'s, AAR quarterly indices.

ATTACHMENT 3

Hypothetical Comparison of Wyoming and San Juan Basin Coals to Kingman, Arizona, Muleshoe, Texas and San Antonio, Texas.

Assumptions (1982 \$'s)

FOB Mine Coal Cost, Powder River Basin (PRB), WY - \$9.50/ton (1982 Wyoming Mineral Yearbook and personal communication, John T. Goodier, Chief of Mineral Development, Wyoming Dept. of Economic Planning and Development)

FOB Mine Coal Cost, Bisti Area, NM - \$18.20/ton (1982 Resources Report, New Mexico Energy and Minerals Dept.)

Rail charges: \$0.0175/ton-mile (assumed)

Escalation Factors

- o FOB Mine Coal Cost - 6%/yr.
- o Rail Rates - 8%/yr.
 - Due to: Monopoly transportation positions, effects of de-control from Staggers Rail Act and intensive capital expansion plans, especially from Powder River Basin, due to lack of additional rail capacity.
- o Assuming 12% Cost of Capital, levelizing factors over a 30 year period are:
 - 2.06 - Rail
 - 1.52 - FOB Mine Coal Costs

DESTINATION:	Kingman, AZ		Muleshoe, TX		San Antonio, TX	
ORIGIN	PRB, WY	Bisti, NM	PRB, WY	Bisti, NM	PRB, WY	Bisti, NM
Miles	1,300	450	950	475	1,650	1,100
\$/Ton-Mile	\$0.0175	\$0.0175	\$0.0175	\$0.0175	\$0.0175	0.0175
Rail Cost-\$/Ton	\$22.75	\$7.88	\$16.63	\$8.31	\$28.88	\$19.2
Mine Cost(FOB) \$/Ton	<u>\$9.50</u>	<u>\$18.20</u>	<u>\$9.50</u>	<u>\$18.20</u>	<u>\$9.50</u>	<u>\$18.20</u>
Delivered Cost (1982 \$'s)	\$27.25	\$26.08	\$26.13	\$26.51	\$38.38	\$37.4
LEVELIZED COSTS - 30 YEAR PERIOD						
(Rail Factor)	(2.06)	(2.06)	(2.06)	(2.06)	(2.06)	(2.06)
Rail Cost-\$/Ton	\$46.87	\$16.23	\$34.26	\$17.12	\$59.49	\$39.6
(Coal Factor)	(1.52)	(1.52)	(1.52)	(1.52)	(1.52)	(1.52)
Mine Cost(FOB) \$/Ton	<u>\$14.44</u>	<u>\$27.66</u>	<u>\$14.44</u>	<u>\$27.66</u>	<u>\$14.44</u>	<u>\$27.66</u>
Avg. Delivered Cost	\$61.31	\$43.89	\$48.70	\$44.78	\$73.93	\$67.2

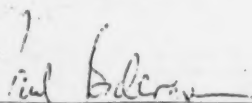
(HOUSE) (SENATE) BILL SB 89 SPONSOR MorganSHORT TITLE Financing of Energy Transportation SystemsREVIEWING DEPARTMENT OR AGENCY ENERGY AND MINERALS DEPARTMENTPERSON COMPLETING FORM CHARLES TURPEN/DUFFY RUIMERMAN

* PLEASE CHECK APPROPRIATE BOXES

AGENCY COMMENTS AND RECOMMENDATIONS

- ☐ If passed, would be carried out with existing personnel and budgets
- ☒ If passed, may have significant budgetary implications (Attach estimates, if available)
- ☐ If passed, would mandate additional staff not in the budget (Attach explanation)
- ☐ If passed, would jeopardize federal monies
- ☐ If passed, would replace federal monies
- ☐ If passed, would aid in the proper administration of state government
- ☒ If passed, major problems may result in the administration of this
- ☒ Raises potential constitutional problems or questions (Attach explanation)
- ☐ Raises potential statutory or legal question
- ☐ Makes needed revisions in the statutes
- ☐ Needed to match federal monies or requirements
- ☐ Not properly drafted, numerous technical problems (Attach explanation)

APPROVED BY


 Signature of Agency Head or Designee

DATE

JANUARY 31, 1983*Exhibit # 11*

BILL ANALYSIS ON SENATE BIL 89 (MORGAN)

TITLE: AUTHORIZING THE INVESTMENT OF PART OF THE SEVERANCE TAX PERMANENT FUND TO FINANCE THE BUILDING OF TRANSPORTATION SYSTEMS IN NEW MEXICO TO TRANSPORT THE STATE'S ENERGY AND MINERAL RESOURCES

MAJOR PROVISIONS

Section 1 A--Would allow up to \$100,000,000.00 of the Severance Tax Permanent Fund to be invested in securities to be sold to finance the building of transportation systems within the State to transport energy and mineral resources. Such eligible securities include debt securities, common and preferred stock, and partnership interests.

Section 1 B--Would allow such investments as provided in subsection A only if the State Board of Finance determines that the building of such a system is necessary to the economic development of an area in the State and if a market for the energy or mineral resource exists and can be reached by the resource.

Section 1 C--Would provide that the securities purchased by the BEF would be secured by the operating revenues of the transportation system and through other measures deemed necessary by the BEF to assure that the risk of these types of investments are comparable to those of other investments of the Fund.

Section 1 D--Would determine that the net effective interest on the securities at the time they are committed would be equal to the market return on comparable investments and shall not fall below 2 percentage points of the average yield on the Fund in the preceding fiscal year.

Section 1 E--Would allow the BEF to promulgate any needed regulations to implement the above provisions.

JUSTIFICATION OR EXPLANATION OF APPROPRIATION

It is our understanding that the investment which would be provided for under SB 89 is being requested for the purpose of financing transportation systems for energy and mineral development. More particularly, it is our understanding that this appropriation is being authorized to finance the Star Lake-Bisti Railroad. SEE : Energy and Minerals Department analysis for SB 90.

EFFECT ON FEDERAL FUNDS

NONE

ALTERNATIVES

SEE COMMENTS BELOW ON consequences of not enacting this bill and duplication or conflict with other laws or pending legislation.

FISCAL IMPACTS

Obviously, BEF should be consulted on this since they would be authorized to invest \$100,000,000.00 of the Severance Tax Permanent Fund for transportation systems.

-2- SB 89)

CONSEQUENCES OF NOT ENACTING THIS BILL

If the State is not authorized to invest monies in transportation systems, and if SB 90 is not enacted, then the systems (again, in particular, the railroad) either will be built by private enterprise or a portion of San Juan Basin coal may not be developed.

DUPLICATION OR CONFLICT WITH OTHER LAWS OR PENDING LEGISLATION

1. Section 14 of Article 9 of the New Mexico Constitution states, in part, "Neither the state, nor ...shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person...or in aid of any private enterprise for the construction of any railroad." (Emphasis added)

Therefore, passage of SB 89 may create constitutional problems.

2. SB 90 is an alternative to this legislation. While this bill would allow the severance tax permanent fund to be invested in revenue bonds issued by a transportation system (railroad), SB 90 would authorize the state to build its own railroad by issuing bonds in which the permanent fund may be invested.

OTHER ISSUES

How will the BEF determine that a transportation system is "necessary to the economic development of an area of the state...?"

How will the BEF determine that a market exists for the energy or mineral resource and that it (the market) can reasonably be reached by the New Mexico resource?" (emphasis added)

Since these items are not defined or delineated in the legislation, problems may arise if the bill is passed since these items are pertinent to the investment of \$100,000,000 of the state's severance tax permanent fund.

FINANCIAL IMPACT ALYSIS FORMDEPARTMENT ENERGY AND MINERALS DEPARTMENTDIVISION OR ADMINISTRATIVELY ATTACHED AGENCY OFFICE OF SECRETARYBILL TITLE SB 89--FINANCING ENERGY TRANSPORTATION PROJECTSDESCRIPTION: SEE ATTACHED ANALYSIS

NEED FOR LEGISLATION:

SEE ATTACHED ANALYSIS

FINANCIAL IMPACT OF PROPOSAL

Will the proposal result in gain or loss of state revenues?

(yes) (no). If yes, set forth amount and type

\$ _____

Will the proposal result in increased expenditures or savings for your agency? (yes) (no) If yes, set forth amount, source of funds and whether on-going expenditure or on-time _____

Are federal matching funds for the program or project anticipated?

(yes) (no) If yes, set forth amount \$ _____

and state/federal matching ratio _____

Are matching funds anticipated to be available on a recurring basis as opposed to one-time seed or pilot monies? (yes) (no)Will the proposal result in other financial impact such as impact on other state agencies or local public bodies? (yes) (no). If yes, set forth amount and source of funds _____

PERSONNEL INFORMATION:

Does the proposal require new positions? (yes) (no) If yes, how many? _____ Total additional payroll? _____NAME OF PERSON TO CONTACT ABOUT THE PROPOSAL CHARLES TURPEN/DUFFY RUINAME OF PERSON IN AGENCY OR DEPARTMENT MOST KNOWLEDGEABLE ABOUT THIS REQUEST DUFFY RUIJERMANSECRETARY [Signature] DATE JANUARY 31, 1983Signature of Department Secretary
or Administrative Head of Adjunct Agency.

CONSERVATION COMMITTEE
CORPORATIONS COMMITTEE
FINANCE COMMITTEE

SENATE BILL 89

36TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1983

INTRODUCED BY

Joseph H. McGinnis
Frank J. S. [unclear] *Mr. Williams*
Joseph H. McGinnis
Pyatt [unclear]

FOR THE ENERGY RESOURCES TRANSPORTATION COMMITTEE

AN ACT

RELATING TO INVESTMENTS; AUTHORIZING THE INVESTMENT OF PART OF THE SEVERANCE TAX PERMANENT FUND IN CERTAIN INVESTMENTS; PRESCRIBING TERMS AND CONDITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. TRANSPORTATION SECURITIES.--

A. Not more than one hundred million dollars (\$100,000,000) of the severance tax permanent fund may be invested in securities which are sold to finance the building of transportation systems within the state, ~~including nuclear reservations~~ to transport energy and mineral resources. Securities eligible for investment shall include debt securities, common and preferred stock and partnership interests.

B. The investment authorized in Subsection A of this section shall be undertaken only after the state board of finance has determined that:

underecorded material - new
[bracketed material] - deletion

SB 89

1 (1) the building of a transportation system is neces-
2 sary to the economic development of an area of the state; and

3 (2) there exists a market for the energy or mineral
4 resource, and the market can reasonably be reached by the New Mexico
5 resource.

6 C. Securities so purchased shall be secured by the operating
7 revenues of the transportation system and such other security as the
8 state board of finance may deem necessary to assure that the risk on
9 the investment is comparable to the risk on other investments of the
10 severance tax permanent fund.

11 D. The net effective interest on the securities at the time
12 of commitment shall be equal to the market return on comparable invest-
13 ments but shall not be less than two percentage points below the aver-
14 age yield on the severance tax permanent fund in the preceding fiscal
15 year.

16 E. The state board of finance may promulgate such regula-
17 tions as it deems necessary to implement the provisions of this sec-
18 tion.

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.53211.1

FINANCIAL IMPACT ANALYSIS FORM

DEPARTMENT ENERGY AND MINERALS DEPARTMENT

DIVISION OR ADMINISTRATIVELY ATTACHED AGENCY OFFICE OF SECRETARY

BILL TITLE SB 90--ENERGY TRANSPORTATION ACT

DESCRIPTION: SEE ATTACHED ANALYSIS

NEED FOR LEGISLATION:

SEE ATTACHED ANALYSIS

FINANCIAL IMPACT OF PROPOSAL

Will the proposal result in gain or loss of state revenues?
(yes) (no). If yes, set forth amount and type
See attached analysis

Will the proposal result in increased expenditures or savings for your agency? (yes) no. If yes, set forth amount, source of funds and whether on-going expenditure or on-time

Are federal matching funds for the program or project anticipated?
(yes) (no). If yes, set forth amount \$ _____
and state/federal matching ratio _____

Are matching funds anticipated to be available on a recurring basis as opposed to one-time seed or pilot monies? (yes) (no)

Will the proposal result in other financial impact such as impact on other state agencies or local public bodies? (yes) (no). If yes, set forth amount and source of funds See attached analysis

PERSONNEL INFORMATION:

Does the proposal require new positions? (yes) (no). If yes, how many? _____ Total additional payroll? _____

NAME OF PERSON TO CONTACT ABOUT THE PROPOSAL CHARLES TURPEN/DUFFY RUI

NAME OF PERSON IN AGENCY OR DEPARTMENT MOST KNOWLEDGEABLE ABOUT THIS REQUEST / DUFFY RUTHERMAN

SECRETARY 16/15/80 DATE JANUARY 31, 1983
Signature of Department Secretary
or Administrative Head of Adjunct Agency.

Exhibit #12

ENERGY AND MINERALS DEPARTMENTANALYSIS FOR SENATE BILL 90

TITLE: CREATING AN ENERGY TRANSPORTATION AUTHORITY: "ENERGY TRANSPORTATION ACT"

MAJOR PROVISIONS

SECTION 2--Outlines legislative findings that the "absence of suitable transportation systems in New Mexico is a major factor in the failure of industry to achieve maximum utilization of existing energy reserves..." and that aiding in the development, distribution and utilization of energy resources are "...proper objects of encouragement by this state..."

SECTION 3--Sets out definitions to be used under the act defining, for example, transportation systems as including "...pipelines, railroads, acquisition of lands, rights-of-way, easements and other facilities or structures deemed necessary..."

SECTION 4--Would create the "Energy Transportation Authority" to be administratively attached to the Energy and Minerals Department. The authority would consist of five (5) members appointed by the Governor, with consent of the Senate, to serve for staggered terms of five (5) years or less so that the term of one member expires on June 30th of each year. In addition, the Secretary of Energy and Minerals, the Attorney General, and the State Treasurer would serve as ex officio members on the Authority.

SECTION 5--Would provide compensation for Authority members as provided for non-salaried officers in the Per Diem Mileage Act.

SECTION 6--Would allow for the organization of the Authority (election of chairman, etc.)

SECTION 7--Describes the general powers of the Energy Transportation Authority (ETA) and would allow the ETA to, for example, sue and be sued; acquire, construct, operate under contract or lease, control or use any works, facilities and other installations necessary to any project authorized under the Act; exercise the power of eminent domain under the Eminent Domain Code.

SECTION 8--Describes additional powers of the ETA and would allow the ETA to fix and revise, charge and collect any tolls, fees, rents, etc. for the use of and for the services furnished by any project funded under the Act. Such fees, rentals, etc. would not be subject to the supervision or regulation of any other board, commission, etc. "...provided that normal budgetary oversight is permitted." In addition, the ETA would be able to set aside any of these "collected" revenues after all operation and maintenance costs are covered in a sinking fund in the state treasury for the payment of the principal of and interest on bonds utilized by the ETA for transportation projects.

SECTION 9--Outlines the steps the ETA would have to take for investing state funds in an energy transportation project. Whenever the ETA by resolution would determine that a "supply deficiency" demands an energy transportation project, the Authority would have to make public its determination and file a plan detailing the specifics of the proposed project in accordance with the State Rules Act.

SECTION 10--Describes the issuance of "energy transportation bonds." Once the plan for the project is approved, the ETA would be authorized to make and issue state revenue bonds to be known as "energy transportation bonds" which would be

-2-

payable, as stated above, from revenues derived from the operation of the project. The proceeds from the sale of such bonds would be used only for the purposes specified in the ETA resolution and for which they were issued.

SECTION 11--Details the terms of such energy transportation bonds. These bonds would bear interest equal to "the market return on comparable investments" but could not go below two percentage points of the average rate of interest or return on all the investments of the Severance Tax Permanent Fund for the fiscal year immediately preceding their investment. Section 11 further details provisions for selling the bonds.

SECTION 12--Would provide that the entity authorized by law to invest the Severance Tax Permanent Fund would be allowed to invest such money in energy transportation bonds in an amount not to exceed \$100,000,000. In addition, within sixty (60) days from the effective date of this Act, this entity would have to invest not less than \$200,000,000.00 of the Fund in short-term securities (not exceeding two (2) years) to maintain a reserve for purposes of investment in energy transportation bonds until the maximum amount permitted to be invested has been invested from such a reserve. However, Section 12 would provide that if no bonds are issued within six (6) years from the effective date of the Act, this reserve could be re-invested in another manner.

SECTION 13--Would provide that energy transportation bonds could be refundable.

SECTION 14--Would make the bonds securities in which investments could be made.

SECTION 15--Would provide that all the above-mentioned financial transactions be free from taxation.

SECTION 16--Would provide for a \$100,000 appropriation from the General Fund to the ETA for operations during the 72nd fiscal year. Any unexpended or unencumbered balance shall revert to the General Fund.

JUSTIFICATION OR EXPLANATION OF APPROPRIATION

The main purpose for the creation of an Energy Transportation Authority, its powers to invest in energy transportation projects, and the appropriation provided for in SB 90 is to assist in providing suitable transportation systems within the state to achieve maximum utilization of New Mexico's energy resources (thus, stimulating economic development and adding to the state's revenues).

For example, it has been argued that the lack of an adequate rail transportation system in the San Juan Basin is a contributing factor to why several companies with coal reserves in that area have not opened their mines. Over the past few years, there has been a great deal of discussion surrounding the proposed Star Lake-Bisti Railroad for this area. Currently, this proposal is in litigation. It is the ENM's understanding that the Star Lake Railroad Company has filed a condemnation suit in federal district court in Albuquerque, but the case has not yet been heard. The Company is apparently ready to begin construction of the first segment of the railroad as soon as they can legally obtain the right of way. In addition, the financing of the first segment of the railroad has already been arranged and was publicly announced when the contract between Santa Fe Mining Inc. and Tucson Electric Power Company was announced last May. Investment in this portion of the railroad's construction will be made by a limited partnership composed of Santa Fe Mining Company,

Limited Partnership, Inc., and an unnamed shipper

The Energy and Minerals Department realizes rail transportation in the San Juan is necessary for coal mining operations to expand or open up. However, the Department also realizes that providing a means for transporting the coal is not sufficient for increasing volumes of production. Several studies recently published have indicated that markets for western coal and, in particular, New Mexico coal will not flourish. In addition, New Mexico does not have a competitive edge on any coal markets for our San Juan coal when competing within our own region. (NOTE: This statement does not apply to coal from the Raton Basin.)

EFFECTS ON FEDERAL FUNDS

None that we are aware of.

ALTERNATIVES

The lack of an adequate rail transportation system in the San Juan Basin is an important impetus behind the reasoning of such legislation as SB 89 and SB 90. An alternative would be to allow normal market forces to dictate the construction of energy transportation systems. In addition, the State could assist in the removal of any undue institutional constraints or barriers to the development of the railroad or any other project deemed important to the development of our energy and mineral resources.

OTHER FISCAL AND ADMINISTRATIVE IMPACTS

Possible fiscal impacts (in addition to the \$100,000 appropriation from the General Fund and the allowance of use of the Severance Tax Permanent Fund) could occur from increased energy development stemming from the provision of needed energy transportation systems. We could, again, use the example of the San Juan Basin and Star Lake Railroad and have done so in the attached December, 1982 economic analysis.

CONSEQUENCES OF NOT ENACTING THIS BILL

The Energy and Minerals Department favors what Santa Fe Mining and the Star Lake Railroad Company are planning with respect to rail transportation in the San Juan Basin. However, in relation to SB 90, given the status of this project and the information indicating a "soft" market for New Mexico's coal, it is difficult to evaluate the possible consequences of not enacting this legislation. For example, some mines may open and/or expand independent of a railroad if the market shows some improvement.

DUPLICATION OR CONFLICT WITH OTHER LAWS OR PENDING LEGISLATION

This is an alternative to SB 89. SEE EMD analysis of this bill for details.

OTHER ISSUES

With respect to a railroad for the San Juan Basin Area, it should be noted that negotiations have begun with the Navajo Nation to build a line which could potentially serve some of the mines that are not in operation due to lack of transportation and markets. In addition to the attached economic analysis, we are also attaching a description of each railroad and the mines they could potentially serve.

STAR LAKE RAILROAD

The Star Lake Railroad can be divided into three segments. The first segment, which would be approximately 30 miles long, would be capable of serving two mines which are already permitted, and possibly a third mine which could be located on tracts of coal which will be leased by the BLM in the first competitive lease sale in the San Juan Basin. The two permitted mines are Santa Fe Mining Inc., Lee Ranch Mine, and the Chaco Energy Company South Hospah Mine. The Lee Ranch mine has a planned capacity of almost 4 million tons per year. The South Hospah Mine would be capable of similar production.

The second segment of the railroad would extend to Star Lake Junction, a total distance of 62 miles, and would include a short spur back to the east. It would provide transportation facilities to four planned mines. They are Chaco Energy Company's Star Lake Mine, Alamito Coal Company's Gallo Wash Mine, the property formerly held by Western Associated Coal, and Salt River Project's Nageezi Mine. If this segment was also constructed, production that could be mined and shipped over the railroad could be as high as 18 million tons per year.

The third segment of the railroad would extend the total distance to 114 miles, and would provide transportation services to the coal properties held by Gateway Mining in the Bisti area, the PRLA's held by Arch Minerals, and Consolidated Coal Company's Burnham Mine located on the Navajo Indian Reservation. Total production then moved over the railroad could reach 46 million tons per year.

THE NAVAJO RAILROAD

The first leg of the Navajo Railroad would extend from the Santa Fe Railway main line just west of Gallup to Burnham, located on the Navajo

Reservation. That segment would serve the Burnham Mine, which could produce as much as 12 million tons per year. It is not inconceivable that it could also transport coal from the Bisti area, (Arch Minerals, and Sunbelt Mining properties) as well as the Standing Rock area on the Navajo Reservation.

The second leg of the railroad would extend north to Farmington, and would allow coal to move from the Burnham and Bisti areas to power plants in the Farmington area. Coal from Utah International's Navajo Mine and other mines in the Northwestern corner of the Basin would then have access to the Santa Fe Railway main line if both segments were constructed.



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
 525 Camino de los Marquez
 Santa Fe, New Mexico
 87501

BRUCE KING
 SECRETARY

MEMORANDUM
 DECEMBER 2, 1982

To: Pat Rodriguez

From: Bruce Stockton

RE: Star Lake Railroad Economic Analysis

Attached for your review is a brief analysis which deals with the economic effects upon the State of the Star Lake Railroad. The analysis deals with revenues which will accrue to the State in the coming years, depending upon how much of the railroad is actually constructed. It also covers the amount of capital which would be invested and the direct mining employment which would result. However, one must remember that the projections are all based upon the premise that sufficient markets will develop for additional San Juan Basin coal.

If you wish to make any revisions or additions please let me know.

cc: Charles Turpen
 Gary Carlson

OFFICE OF THE SECRETARY
 (505) 827-2471

ADMINISTRATIVE SERVICES DIVISION
 (505) 827-3511

CONSERVATION & MANAGEMENT DIVISION
 (505) 827-5621

MINING & MINERALS DIVISION
 (505) 827-5451

RESOURCE & DEVELOPMENT DIVISION
 (505) 827-3326

DE CONSERVATION DIVISION
 (505) 827-2434

Land Office Bldg., P.O. Box 2088, Santa Fe, New Mexico 87501

THE STAR LAKE RAILROAD-A BRIEF ANALYSIS OF ITS ECONOMIC
IMPACTS UPON NEW MEXICO

The proposed Star Lake Railroad could have positive economic effects upon the State by increasing tax revenues due to coal production, increasing employment, and increasing the capital investment within the State. However, lack of demand for additional coal production from New Mexico may delay the economic benefits until the 1990's.

The proposed Star Lake Railroad will provide a transportation link between the coal resources located in the San Juan Basin and the Santa Fe Railway's mainline. There are approximately 5.4 billion tons of surface minable reserves located in the San Juan Basin. Because of the quality characteristics of the coal deposits occurring in the San Juan Basin, its primary market will be for electric power generation in the adjoining states of Arizona and Texas, as well as New Mexico. Because of the recent slowing of growth in demand for electric power, there may not be much demand for additional coal production until the 1990's and beyond. However, there are some contracts already in place for San Juan Basin coal, and others are being negotiated.

Increased coal production in the San Juan Basin will result in increased state revenues due to the severance tax, the resource excise tax, the oil and gas conservation tax, and gross receipts taxes for coal which is consumed in-state. In addition, the State will collect royalties for coal mined from both state lands and federal lands. (The State receives one-half of all federal royalties after administrative costs are deducted.) Additional temporary employment will also be realized from the construction of both the railroad and mines, as well as permanent employment by the mines as they enter production.

The Star Lake railroad would ultimately be 115 miles long if it is constructed in its entirety. However, it is possible for additional coal

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production facilities to be opened if only part of the railroad is constructed. Currently, there are 10 planned mines which could utilize the Star Lake Railroad. Five of those mines currently hold permits from the Bureau of Surface Mining, Mining and Minerals Division, Energy and Minerals Department. Two mines have already begun construction. They are Santa Fe Mining Company's Lee Ranch Mine and Sunbelt Mining's Gateway Mine. Santa Fe Mining has a contract to supply coal to a new plant being constructed in Arizona by Tucson Electric Power. They are also negotiating with several other utilities for additional contracts. Sunbelt Mining will initially ship coal by truck from the Gateway Mine to the San Juan Power Plant west of Farmington. They, too, are seeking additional contracts.

Table I summarizes the tax revenues which the State would collect from coal production under various scenarios. The low scenario assumes that the railroad will only be built to the South Hespah, and would ultimately serve two or three mines. The mid scenario assumes the railroad would be built to Star Lake Junction, (a distance of 61 miles) and would ultimately serve from four to six mines. The high scenario assumes that the entire railroad would be built and would serve as many as 10 mines.

Table II summarizes the state and federal royalties which would result from coal production which would be moved by the Star Lake Railroad. The production and price projections are the same as in Table I. The fraction of production from State and Federal lands is based upon current mineral holdings in the area.

Direct employment from the mining activities associated with the Star Lake Railroad is summarized in Table III. All the mines are assumed to be surface mines producing at the rate of 12000 tons per man-year. There would, of course, be significant indirect employment from mining, as well as additional railroad employment.

Table IV outlines capital investment in mining properties which would be served by the Star Lake Railroad, assuming that capital costs would be \$24.58 (1982 dollars) per annual ton of capacity.

Capital investment in the Star Lake Railroad itself is estimated to be from 1 million to 1.5 million dollars per mile. If the Railroad is constructed only to South Hospah, then the total capital investment would be from \$29 million to \$43.5 million. If it is constructed to Star Lake Junction, then the capital investment would be between \$61 million and \$91.5 million. If the entire railroad is constructed then capital investment would be from \$115 million to as high as \$172.5 million. In addition, spurs would most likely be constructed from the Star Lake Railroad to mine properties, thereby increasing the total capital investment.

Construction of the railroad will take 6 months to 26 months, depending upon the total length.

In conclusion, one should keep in mind that all the projected revenues and employment are dependent upon sufficient demand for coal. Electric utilities are the most likely customers for large quantities of coal, so coal demand is tied to electricity demand.

TABLE 1
TAX REVENUES FROM COAL
SHIPPED ON THE SLRR FOR SELECTED YEARS
Current Dollars

YEAR	LOW	MID	HIGH
1985	7,844,400	8,273,500	8,846,000
1990	22,064,500	24,100,200	25,523,400
1995	33,045,400	74,449,800	177,101,600
2000	48,315,700	108,100,100	242,446,500

ASSUMED PRODUCTION
(tons)

1985	2,500,000	2,500,000	2,500,000
1990	7,000,000	7,470,000	7,470,000
1995	7,000,000	17,600,000	45,600,000
2000	7,000,000	17,600,000	45,600,000

ASSUMED PRICES
1981 Dollars/ton

1985	33.05	35.82	39.53
1990	53.64	58.67	65.37
1995	79.78	87.47	97.77
2000	115.26	126.55	141.58

ASSUMPTIONS USED IN PROJECTING TAX REVENUES ATTRIBUTABLE
TO THE STAR LAKE RAILROAD

An inflation rate of 7.3% per year is assumed

Gross receipts taxes are collected on only the coal consumed in-state

The Gross receipts tax rate is assumed to be 3.5%

The Low Scenario assumes that the railroad will be built only to South Hospah

The mid Scenario assumes that the railroad will be built to Star Lake Junction

The High Scenario assumes that the entire railroad will be built

TABLE II
PROJECTED STATE AND FEDERAL ROYALTIES FOR
SELECTED YEARS FROM COAL SHIPPED ON
THE STAR LAKE RAILROAD
(Millions of Current Dollars)

Year	Low	Mid	High
Federal Royalties Paid to the State			
1985	0.103	1.175	2.224
1990	0.469	5.752	10.987
1995	0.698	20.206	100.312
2000	1.009	29.233	145.261

Royalties from State Lands

1985	0.413	0.560	0.865
1990	1.877	2.739	4.273
1995	2.792	9.622	39.010
2000	4.034	13.921	56.490

Assumptions:

An inflation rate of 7.3% is assumed

In the Low Scenario 2% of the coal is extracted from Federal lands and 4% is from State Lands

In the Mid Scenario 21% of the coal is extracted from Federal lands and 5% is from State lands

In the High Scenario 36% of the coal is extracted from Federal lands 7% is from State lands

The Low Scenario assumes that the railroad will be built only to South Hospah

The Mid Scenario assumes that the railroad will be built to Star Lake Junction

The High Scenario assumes that the entire railroad will be built

A 12.5% royalty rate is assumed

TABLE III
PROJECTED EMPLOYMENT FOR SELECTED YEARS FOR MINES
UTILIZING THE STAR LAKE RAILROAD

Year	Low	Mid	High
1985	208	208	208
1990	583	623	623
1995	583	1467	3800

Assumptions:

Employment is based upon productivity of 12,000 tons per man year

- The Low Scenario assumes that the railroad will be built only to South Hospah

The mid Scenario assumes that the railroad will be built to Star Lake Junction

The High Scenario assumes that the entire railroad will be built

CONSERVATION COMMITTEE
 CORPORATIONS COMMITTEE
 FINANCE COMMITTEE

SENATE BILL 90

36TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1983

INTRODUCED BY

Joseph M. Thompson
Robert A. Williams
David A. DeBevoise
Joseph A. J. J. J.
 FOR THE ENERGY RESOURCES TRANSPORTATION COMMITTEE

AN ACT

RELATING TO ENERGY RESOURCES; PROVIDING FOR THE RELIEF OF SUPPLY DEFICIENCIES CAUSED BY ABSENCE OF SUITABLE TRANSPORTATION SYSTEM; CREATING AN ENERGY TRANSPORTATION AUTHORITY; PROVIDING FOR POWERS AND DUTIES; AUTHORIZING ISSUANCE OF BONDS; AUTHORIZING INVESTMENT OF SEVERANCE TAX PERMANENT FUND; CREATING RESERVES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Energy Transportation Act".

Section 2. PUBLIC POLICY.--The legislature finds and declares that:

A. the development of New Mexico's extensive energy resources is paramount to a sound and balanced economy and to the public welfare of this state in that it provides opportunity for public employment, stimulation of business and industrial enterprise and con-

underscored material = new
 [bracketed material] = deletion

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stitutes an essential source of fuel and power to replace other diminishing energy supplies;

B. the absence of suitable transportation systems in this state is a major factor in the failure of industry to achieve maximum utilization of existing energy reserves in this state; and

C. the successful development, distribution and utilization of such resources are proper objects of encouragement by this state in fulfillment of its obligation to promote and protect the economy of its communities and the public welfare of its citizens.

Section 3. DEFINITIONS.--As used in the Energy Transportation Act:

A. "authority" means the energy transportation authority;

B. "board" means the entity authorized by law to invest the severance tax permanent funds;

C. "project" means the acquisition, construction or operation of any transportation system within this state for energy resources produced, milled, mined or refined in New Mexico when such system is deemed essential to relieve supply deficiencies;

D. "transportation system" includes pipelines, railroads, acquisition of lands, rights-of-way, easements and other facilities or structures deemed necessary for the purposes of the Energy Transportation Act; and

E. "supply deficiency" means a significant deprivation in the supply of energy resources produced, milled, mined or refined in New Mexico attributable in whole or in part to the absence of an ade-

1 quate transportation system between the producing, milling, mining or
2 refining area and the point of consumption, use or further distribution
3 located within this state.

4 Section 4. ENERGY TRANSPORTATION AUTHORITY--CREATED.--

5 A. There is created the "energy transportation authority"
6 which shall be administratively attached to the energy and minerals
7 department.

8 B. The authority shall consist of five members appointed by
9 the governor with the consent of the senate for staggered terms of five
10 years or less so that the term of one member expires on June 30 each
11 year. In addition to the appointed members, the secretary of energy
12 and minerals, the attorney general and the state treasurer shall serve
13 ex officio on the authority.

14 C. Vacancies shall be filled for the unexpired term by the
15 governor.

16 D. The appointed members of the authority shall be residents
17 and citizens of this state.

18 Section 5. ENERGY TRANSPORTATION AUTHORITY--COMPENSATION.--Ap-
19 pointed members of the authority shall receive per diem and mileage as
20 provided for nonsalaried officers in the Per Diem and Mileage Act.

21 Section 6. ENERGY TRANSPORTATION AUTHORITY--ORGANIZATION.--At the
22 initial meeting of the authority following its appointment, members
23 shall elect from among its appointed membership a chairman and a vice
24 chairman who shall serve for terms of two years each or until their
25 respective successors are elected and qualified.

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- 1 Section 7. ENERGY TRANSPORTATION AUTHORITY--GENERAL POWERS.--The
2 authority may:
- 3 A. sue and be sued;
- 4 B. adopt and use a corporate seal to authenticate its offi-
5 cial business;
- 6 C. adopt rules and regulations necessary to carry out the
7 purpose of the Energy Transportation Act;
- 8 D. enter into contracts, including contracts with the fed-
9 eral government and agencies thereof, political subdivisions of the
10 state and private entities; provided such contracts shall be subject to
11 review by the authority at least every two years;
- 12 E. employ and fix the compensation of a director and such
13 staff and other personnel as it deems necessary to carry on the busi-
14 ness of the authority;
- 15 F. receive and expend all funds accruing to the authority
16 pursuant to the provisions of the Energy Transportation Act;
- 17 G. take by grant, purchase, bequest, devise or lease real or
18 personal property;
- 19 H. hold, enjoy, lease, sell or encumber or otherwise dispose
20 of any real or personal property;
- 21 I. acquire, construct, operate under contract or lease, con-
22 trol or use any works, facilities or other installations necessary to
23 any project authorized by the Energy Transportation Act;
- 24 J. exercise the power of eminent domain pursuant to the pro-
25 visions of the Eminent Domain Code;

1 K. seek such certificates and permits as the authority deems
2 necessary; and

3 L. exercise all other powers necessary and requisite for the
4 accomplishment of the provisions of the Energy Transportation Act.

5 Section 8. ENERGY TRANSPORTATION AUTHORITY--ADDITIONAL POWERS.--

6 A. The authority may fix, revise, charge and collect tolls,
7 fees, rents and charges for the use of and for the services furnished
8 or to be furnished by any project, or any portion thereof, and to con-
9 tract with any person, partnership, association or corporation desiring
10 the use of any part or all thereof and to fix the terms, conditions,
11 fees, rents and charges for such use. Such tolls, fees, rents and
12 charges shall be so fixed and adjusted in respect to the aggregate
13 tolls, fees, rents and charges from the project in connection with
14 which the bonds of any issue have been issued as to provide funds suf-
15 ficient with other revenues, if any:

16 (1) to pay the principal of and the interest on such
17 bonds as the same become due and payable;

18 (2) to pay the cost of maintaining, repairing and oper-
19 ating the project; and

20 (3) to create and maintain reserves for such purposes.

21 B. The tolls, fees, rents and charges authorized in this
22 section are not subject to supervision or regulation by any other com-
23 mission, board, bureau or agency of the state; provided that normal
24 budgetary oversight is permitted.

25 C. A sufficient amount of the revenues derived from the

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1 project in connection with which the bonds of any issue have been
2 issued, except such part thereof as may be necessary to pay the cost of
3 maintenance, repair and operation and to provide reserves therefor and
4 for renewals, replacements, extensions, enlargements and improvements
5 as may be provided for by the resolution authorizing the issuance of
6 the bonds, shall be set aside at such regular intervals as may be pro-
7 vided in the resolution in a sinking fund in the state treasury which
8 is hereby pledged to and charged with the payment of the principal of
9 and the interest on such bonds as the same become due and the redemp-
10 tion price or the purchase price of bonds retired by call or purchase
11 as therein provided.

12 Section 9. ENERGY TRANSPORTATION PROJECTS.--

13 A. Whenever the authority by resolution determines that the
14 existence of a supply deficiency demands the acquisition, construction,
15 repair, extension, improvement or betterment of any project, it shall:

16 (1) provide immediate and widespread notice of such in-
17 tention, including publication of legal notice in a newspaper of gen-
18 eral circulation in the state once a week for two consecutive weeks of
19 a public hearing on the feasibility and need of the proposed project;

20 (2) conduct a public hearing at the time and place spec-
21 ified in such notice; and

22 (3) upon a finding and showing of the feasibility and
23 need for the proposed project, file in accordance with the State Rules
24 Act regulations setting forth a plan for the proposed project which:

25 (a) identifies with specificity the supply defi-

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1 ciencies it proposes to alleviate by the proposed project;

2 (b) states the method and target dates by which the
3 proposed project will be completed; and

4 (c) requests that any part of the private sector of
5 the state's economy wishing to alleviate the identified supply defi-
6 ciencies without the construction or operation of the project by the
7 state submit to the authority within sixty days after the filing of the
8 authority's plan a firm proposal for alleviating the supply deficien-
9 cies, which proposal shall be accompanied by proof of technical and
10 financial ability of the private entity to carry it out within a rea-
11 sonable time of the proposed target date.

12 B. The authority shall wait sixty days after filing its plan
13 for the proposed project under the State Rules Act for any proposals
14 from the private sector to be presented. It shall examine any pro-
15 posals received within the sixty-day period and either reject them for
16 cause or accept them within thirty days. If no proposal is received,
17 or none is accepted, within the period specified, the authority shall
18 proceed under the plan to carry out the project and, through contract
19 or lease, arrange for the operation of the project in such manner that
20 it will accomplish the purpose of the project and will produce a rea-
21 sonable return on the state funds invested in it.

22 C. If a proposal is accepted but it becomes apparent that
23 the proposed target date will not be accomplished, the authority shall
24 pass another resolution pursuant to Subsection A of this section.

25 Section 10. ENERGY TRANSPORTATION BONDS.--

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1 A. After the notice, hearing and filing procedures set forth
2 in Section 7 of the Energy Transportation Act have been complied with
3 and whenever the authority by resolution determines that the interest
4 or necessity demands the issuance of revenue bonds for the funding of
5 the project, it may, pursuant to such resolution, make and issue state
6 revenue bonds which shall be known as "energy transportation bonds".
7 Such bonds shall be payable solely out of the net income to be derived
8 from the operation of the project in the manner provided in the Energy
9 Transportation Act and shall pledge, irrevocably, such income to the
10 payment of those bonds.

11 B. The proceeds from the sale of energy transportation bonds
12 shall be used solely for the purposes specified in the resolution and
13 for which they were issued.

14 Section 11. ENERGY TRANSPORTATION BONDS--TERMS.--Energy transpor-
15 tation bonds issued by the authority:

16 A. shall bear interest which at the time of commitment shall
17 be equal to the market return on comparable investments but shall not
18 be less than two percentage points below the average rate of interest
19 or return on all the investments of the severance tax permanent fund
20 for the immediately preceding fiscal year previous to their issue;

21 B. shall be payable at such times as the authority may pro-
22 vide and may or may not be evidenced by coupons; provided the first
23 interest payment date may be for interest accruing for any period not
24 exceeding one year;

25 C. may be subject to prior redemption at the authority's

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1 option at such time and upon such terms and conditions, with or without
2 payment of premiums, as may be provided in the resolution of the au-
3 thority;

4 D. may mature at any time not exceeding fifty years after
5 the date of issuance;

6 E. may be serial in form and maturity and may consist of one
7 bond payable at one time or in installments;

8 F. shall be sold for cash at, above or below par and at the
9 effective interest rate permitted in this section; and

10 G. may be sold at a public or private sale.

11 Section 12. SEVERANCE TAX PERMANENT FUND--AUTHORITY TO INVEST.--

12 A. The board may invest money from the severance tax perma-
13 nent fund in energy transportation bonds issued pursuant to the pro-
14 visions of the Energy Transportaton Act in an amount not exceeding in
15 the aggregate one hundred million dollars (\$100,000,000); provided that
16 each such bond bears at the time of commitment a net effective interest
17 rate equal to the market return on comparable investments but shall not
18 be less than the average rate of interest or return on all investments
19 of the severance tax permanent fund for the immediately preceding fis-
20 cal year.

21 B. Within sixty days from the effective date of the Energy
22 Transportation Act, the board shall invest not less than two hundred
23 million dollars (\$200,000,000) of the severance tax permanent fund in
24 short-term securities, not exceeding two years, and shall maintain such
25 amount invested therein as a reserve for purposes of investment in en-

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1 ergy transportation bonds until such time as the maximum amount per-
2 mitted to be invested in such bonds by this section has been invested
3 from such reserve; provided, if no energy transportation bonds are
4 issued by the authority within six years from the effective date of the
5 Energy Transportation Act, any amounts so invested in short-term secu-
6 rities as a reserve may be reinvested by the board in the manner it so
7 determines and as provided by law.

8 Section 13. REFUNDING BONDS.--

9 A. Energy transportation bonds issued pursuant to the pro-
10 visions of the Energy Transportaion Act which are outstanding may at
11 any time and from time to time be refunded by the authority upon the
12 adoption of a resolution providing for such issuance and by the issu-
13 ance of refunding bonds in such amount as the authority determines to
14 refund the principal of the energy transportation bonds, all unpaid
15 accrued and unaccrued interest thereon to the normal maturity date of
16 such bonds or to selected prior redemption dates thereof, any redemp-
17 tion premiums, any commission and all estimated costs incidental to the
18 issuance of such bonds and to such refunding as may be determined by
19 the authority.

20 B. The principal amount of any such refunding bonds may be
21 equal to, less than or greater than the principal amount of the bonds
22 so refunded.

23 C. Any such refunding may be effected, whether the bonds to
24 be refunded have then matured or thereafter mature, either by sale of
25 the refunding bonds and the application of the proceeds thereof for the

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1 payment of the bonds to be refunded thereby or by exchange of the re-
2 funding bonds for the bonds to be refunded thereby; provided that the
3 bonds to be so refunded shall not be canceled without the consent of
4 the holders to surrender their bonds for payment or exchange prior to
5 the date on which they are payable or if they are called for redemption
6 prior to the date on which they are by their terms subject to redemp-
7 tion.

8 D. Any refunding bonds issued pursuant to this section shall
9 be payable solely from the revenues out of which energy transportation
10 bonds may be payable or solely from those amounts derived from an es-
11 crow as provided in this section, including amounts derived from the
12 investment of refunding bond proceeds and other legally available
13 amounts also provided in this section or from any combination of the
14 foregoing sources.

15 E. Proceeds of refunding bonds shall either be applied imme-
16 diately to the retirement of the bonds being refunded or be placed in
17 escrow in a commercial bank or trust company which possesses and is
18 exercising trust powers. Notwithstanding any statute to the contrary,
19 such escrowed proceeds may be invested in short-term securities, long-
20 term securities or both.

21 Section 14. BONDS ELIGIBLE FOR INVESTMENT.--Bonds issued by the
22 authority under the provisions of the Energy Transportation Act are
23 hereby made securities in which all public officers and public bodies
24 of this state and its political subdivisions and all insurance com-
25 panies, trust companies, banking associations, investment companies,

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1 executors, administrators, trustees and other fiduciaries may properly
2 and legally invest funds, including capital in their control or be-
3 longing to them. Such bonds are hereby made securities which may prop-
4 erly and legally be deposited with and be received by any state or po-
5 litical subdivision officer for which the deposit of bonds or obli-
6 gations of the state is authorized by law.

7 Section 15. EXEMPTION FROM TAXATION.--The exercise of the powers
8 granted under the Energy Transportation Act will be in all respects for
9 the benefit of the people of the state, for the increase in their com-
10 merce and prosperity and for the improvement of the economy of the
11 state and its political subdivisions, and since the construction, oper-
12 ation and maintenance of any project by the authority will constitute
13 the performance of an essential governmental function, any bonds issued
14 under the Energy Transportation Act, their transfer and the income
15 therefrom, including any profit made on the sale thereof, shall at all
16 times be free from taxation by the state and by its political subdivi-
17 sions.

18 Section 16. APPROPRIATION.--One hundred thousand dollars
19 (\$100,000) is appropriated from the general fund to the energy trans-
20 portation authority for expenditure in the seventy-second fiscal year.
21 Any unexpended or unencumbered balance remaining at the end of the
22 seventy-second fiscal year shall revert to the general fund.

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